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# FEDERAL AVIATION ADMINISTRATION'S OVERSIGHT OF FOREIGN AIRLINE SAFETY

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4. P 96/11:103-73

(103-73)

federal Aviation Administration's O...

## HEARING

BEFORE THE

### SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT

OF THE

### COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

### HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

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OCTOBER 4, 1994

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Printed for the use of the  
Committee on Public Works and Transportation



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U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,  
*Washington, DC, September 30, 1994.*

To: Members, Subcommittee on Investigations and Oversight.

From: Subcommittee staff.

Re Summary of Subject Matter for Investigations and Oversight  
Subcommittee hearing on Foreign Airline Safety, Tuesday, October 4, 1994, 9:30 a.m., room 2167, Rayburn House Office Building.

INTRODUCTION

The Investigations and Oversight Subcommittee has scheduled a hearing to examine the adequacy of the Federal Aviation Administration's [FAA] oversight of foreign airlines operating in U.S. airspace. The purpose of the hearing will be to review the FAA's Part 129 Foreign Aviation Safety Assessment Program and to determine what, if any, additional actions are needed to increase the safety of foreign airlines traveling to or from the United States.

FAA began the Foreign Assessment Program in response to concerns raised by Chairman Borski during a 1991 Subcommittee hearing focusing on the ability of foreign governments to provide adequate safety oversight of their flag carriers flying into the United States. The Subcommittee was also concerned by reports that some U.S. citizens were conducting flight operations under various foreign flags to escape more stringent U.S. safety oversight.

Following that hearing, FAA inspection teams began on-site visits of foreign civil aviation authorities. The purpose of these visits was to assess the capabilities of other countries to ensure that their air carriers met minimum international safety standards. At first, FAA kept the results of these assessments confidential, so as to maintain good working relationships with the civil aviation authorities [CAAs] in these countries. As of September 2nd, however, the FAA began making public the results of its assessments. FAA believes that it is now appropriate to publicize the results because the program is now "mature." Transportation Secretary Peña has also stated that publicizing the assessment results will enable international travelers to make informed choices when flying.

To date, FAA has assessed 30 countries. FAA has determined that 9 of those countries failed to meet international standards for overseeing air safety; airlines licensed by those countries are barred from flying to the United States. Four countries have received a "conditional" rating, meaning that their air carriers may fly to the United States subject to increased FAA inspections. Fourteen of the countries assessed were found to be in compliance with international safety standards. FAA found three additional countries to be in compliance with international safety standards for flights conducted to and from the United States; however, operations to destinations other than the U.S. by air carriers licensed by these countries are not provided a similar level of oversight. (See Table 1 on page 13 for a listing of countries in the four assessment categories.)

## FAA OVERSIGHT OF FOREIGN AIRLINE SAFETY

*The Origin of Minimum International Aviation Safety Standards*

In 1944, representatives of 52 countries met in Chicago to create a framework for international cooperation in developing civil aviation. The representatives signed the Convention on International Civil Aviation (known as the "Chicago Convention"), an international treaty which established minimum safety standards governing civil aviation and the operation of aircraft, and formed the International Civil Aviation Organization [ICAO]. Today, ICAO has 183 member countries.

In accordance with the Chicago Convention, ICAO members are required to comply with minimum international safety standards and to recognize as valid the airworthiness certificates and pilot licenses issued by other member nations. Historically, FAA assumed that such certificates and licenses constituted evidence that a country was providing safety oversight of its airlines, and that if a country certified an air carrier, the airline was in compliance with ICAO safety standards. However, two events in the early 1990s led FAA to question the wisdom of this policy.

The first event was the January 25, 1990, crash of a Columbian airliner that ran out of fuel and crashed while circling John F. Kennedy International Airport. This crash focused intense news media and public attention on the issue of foreign airline safety. Seventy-three people were killed, and if bad weather hadn't forced air traffic controllers to reroute the flight to an unpopulated area, the death toll might have been much higher. The National Transportation Safety Board accident investigation found that the cockpit crew, because of its use of non-standard terminology, failed to adequately communicate its emergency fuel situation to U.S. air traffic controllers.

The second event was the June 1991 hearing by the Subcommittee on Investigations and Oversight, which added impetus to FAA's reexamination of its policy. The Subcommittee received testimony that many developing countries lacked the resources, technical expertise, or commitment to adequately oversee their own aircraft. In response to these concerns, FAA announced the formation of the Part 129 Foreign Aviation Assessment Program.

*How the Foreign Assessment Program Works*

The FAA assesses the civil aviation authorities of countries whose airlines have operating rights to or from the United States, or have requested such rights. With support from the U.S. Department of State and cooperation of the host government, FAA inspectors conduct on-site visits to assess whether a country has an adequate infrastructure for international aviation safety oversight as defined by ICAO standards. The basic elements that FAA considers necessary to find that a country meets these standards include (1) a law enabling the appropriate government office to adopt regulations necessary to meet the minimum requirements of ICAO; (2) current regulations that meet those requirements; (3) procedures to carry out what the regulations require; (4) air carrier certification, routine inspection, and surveillance programs; and (5) personnel and organizational resources to carry out and enforce the above.

FAA has established four categories of ratings to indicate the status of a foreign civil aviation authority's compliance with ICAO safety standards: (1) acceptable, (2) acceptable with limitations, (3) conditional, and (4) unacceptable. Countries that are found to license and oversee their air carriers in accordance with ICAO safety standards are categorized as "acceptable," and may operate their aircraft in U.S. airspace. FAA has determined that some countries license and oversee their air carrier operations to and from the U.S. in accordance with international safety standards; however, operations to destinations other than the U.S. by air carriers licensed by these countries are not provided a similar level of oversight. Countries in which FAA finds some areas of noncompliance with ICAO safety standards are categorized as "conditional." FAA negotiates with the civil aviation authority to implement corrective measures and permits flights to the United States with increased FAA surveillance. A country's civil aviation authority found to be in noncompliance with ICAO safety standards is categorized as "unacceptable." Unacceptable ratings are applied if a civil aviation authority has not implemented laws or regulations in accordance with ICAO standards; if it lacks the capability to certify, oversee, and enforce air carrier operations requirements; if it lacks the capability to certify, oversee, and enforce air carrier maintenance requirements; or if it lacks appropriately trained inspector personnel required by ICAO standards.

### *Program Results*

In a May 1994 speech prepared (but not delivered) for the European Aerospace Industry Conference, FAA's Associate Administrator for Regulation and Certification Anthony Broderick acknowledged that the results of FAA's assessments were sobering. Broderick stated that two-thirds of the countries evaluated initially failed to meet international standards and that most of the problems FAA discovered revolved around the limitations of the civil aviation authorities. Their problems, according to Mr. Broderick, "appear to grow out of a combination of training deficiencies, lack of defined responsibilities and authority, too few trained personnel, and insufficient funding by their governments."

FAA has completed 30 assessments of foreign civil aviation authorities with mixed results. Of the 30 completed assessments, the initial findings were that 10 CAAs were fully complying ICAO standards and 20 CAAs were not fully complying. Currently, of the 30 completed assessments, 14 countries are fully complying with ICAO standards. These 14 countries include the original 10 found to be in full compliance and 4 other countries that are in compliance on flights to and from the U.S. only. Four CAAs are partially complying with ICAO standards; these four countries continue air carrier operations to and from the United States because of increased inspections at U.S. airports by the FAA and by virtue of continuing consultations with the FAA. The nine remaining countries are not in compliance with international standards and have no air carriers operating to or from the United States. However, carriers from these countries may "wet-lease" (lease aircraft and crew together) from countries considered acceptable by the FAA.

FAA has completed assessments of seven additional countries, but has not yet compiled the findings in those assessments into reports. The findings will show that most of those countries are not fully complying with ICAO standards. FAA plans to complete assessments of all 93 countries that fly into the United States by the end of 1996.

Although FAA and the State Department readily disseminate the Foreign Assessment Program results, the burden of finding the information is placed on the consumer, who can access the information by calling the Department of State's Automated Consular Information Bulletins and its 24-hour telephone Citizen Emergency Center travel advisories [(202) 647-5225] or the FAA Consumer Affairs Hotline [(1-800) 322-7873]. The Department of Transportation takes a much more proactive approach when it comes to foreign airport security by posting the names of foreign airports which the Department considers to have inadequate security programs in major U.S. airports.

#### *FAA Surveillance of Foreign Airlines*

An important element of the Foreign Aviation Assessment Program is the increased level of FAA inspections dedicated to foreign airlines. In the past, FAA has conducted few inspections of foreign airlines, relying instead on airworthiness assurances from the airlines' country of registration. As a result of what FAA has learned from its foreign assessment program, however, it now conducts both routine and unannounced "ramp inspections" of foreign airline operators. For foreign carriers that operate foreign-registered aircraft, these inspections consist of a "walkaround" and cursory examination of the condition of the aircraft, and an examination of the aircraft markings, airworthiness and registration certificates and crewmember certificates. FAA also reviews air traffic compliance, taxi and ramp procedures, enplaning/deplaning procedures, and baggage and cargo handling procedures. For foreign carriers operating U.S.-registered aircraft, FAA also examines U.S. Airman Certificates, the aircraft's U.S. Airworthiness Certificate, the maintenance program, and the aircraft's Minimum Equipment List.

Additionally, FAA maintains a list of foreign carriers that, because of deficiencies in their home countries' oversight, receive additional ramp inspections over and above what is normally programmed. (FAA headquarters suggests in guidelines provided to its Flight Standards District Offices one additional ramp inspection per month for each such foreign air carrier.)

If FAA inspectors discover indications of a serious safety problem during a ramp inspection, they may, consistent with domestic and international law which provides that they may prevent flights of unairworthy aircraft in U.S. airspace, conduct a more in-depth inspection of an aircraft. Normally FAA will seek the cooperation of the airline to voluntarily take the aircraft out of service until an appropriate repair is made. Failing to gain cooperation of the airline, FAA will use existing authority to ground a foreign aircraft that it considers unsafe.

Examples of problems revealed during ramp inspections have included

Aircraft corrosion;

Popped rivets, missing fasteners, and loose fuselage skin;  
Bulk materials stored in cabin area without cargo nets;  
Emergency equipment damaged, missing, or improperly  
stowed; and  
Incomplete records.

### *Bilateral Aviation Safety Agreements*

The FAA and the U.S. Department of State recently announced plans to begin negotiating bilateral safety agreements with other nations. These safety agreements will be negotiated during "bilateral," or government-to-government, talks between the U.S. and foreign countries. Such talks already take place periodically between foreign governments and the State Department and Transportation Department to determine, among other things, how frequently a foreign carrier can fly to and from a particular U.S. city. The bilateral aviation safety agreements would make safety items an equally important part of such negotiations.

The new agreements will cover a wide range of aviation safety areas, including reciprocal approvals for aeronautical product certification in design and production; operational safety programs; repair of aeronautical products; certification of foreign repair stations and maintenance personnel; flight simulator evaluation and qualification; and aviation environmental testing and certification. FAA believes the new agreements will help other countries to modernize their aviation safety systems and eventually to standardize those systems. Such standardization would facilitate the U.S.'s ability to buy parts abroad and use foreign maintenance bases. It would also allow the FAA to devote more inspector resources to its Foreign Assessment Program.

FAA expects to sign the first bilateral aviation safety agreements with Canada, France, the United Kingdom, and Germany—countries whose safety systems closely parallel the U.S. system. Ultimately, FAA expects to sign agreements with up to 40 nations.

### *General Accounting Office Reports*

The U.S. General Accounting Office has issued several reports on the safety oversight of aircraft operated overseas. GAO found in its November 1992 report, "Increased Oversight of Foreign Air Carriers Needed" (GAO/RCED-93-42) that the FAA program to determine whether countries comply with international civil aviation standards is a positive step toward improving safety. However, GAO recommended that FAA require its field offices to conduct more comprehensive inspections of foreign aircraft that fly into the United States when FAA either finds that their home governments do not comply with international standards or becomes aware that the carrier has serious safety problems. Comprehensive inspections, such as those done for U.S carriers, would include an examination of such areas as flight controls, fire protection, fuel, navigation, oxygen, and engine controls. Although FAA has significantly increased the number of inspections it conducts on foreign air carriers in response to the GAO recommendations, it still does not routinely conduct comprehensive inspections.

The GAO report also found that FAA did not act promptly when it became aware of serious safety concerns with TAESA Airlines,

a Mexican airline. Canadian safety inspectors found safety deficiencies with several TAESA aircraft as a result of in-depth inspections. Canada notified FAA that specific aircraft did not meet international standards, but FAA did not alert its field offices to increase surveillance until two and one-half months later, after four serious safety incidents involving the carrier occurred in the United States. GAO recommended that FAA promptly notify all relevant field offices of serious safety concerns about foreign carriers. FAA concurred with the recommendation, and developed a system to inform all relevant field offices when special emphasis inspections must take place. Subcommittee staff have recently been advised of additional allegations of safety deficiencies involving TAESA.

GAO has issued recommendations pertaining to the oversight of foreign airlines or U.S.-registered airlines operated overseas in two additional reports. In a June 1993 report, "Unresolved Issues Involving U.S.-Registered Aircraft" (GAO/RCED-93-135), GAO found that since FAA (1) does not track the leasing of U.S.-registered aircraft among U.S. and foreign carriers and (2) has not developed clear guidance to its inspectors regarding the frequency of inspections of foreign-operated, U.S.-registered aircraft, it cannot plan and perform timely inspections of aircraft that return to U.S. operation after having been leased to a foreign carrier. GAO also found that since (1) FAA cannot verify whether foreign carriers have FAA-approved maintenance programs for U.S.-registered aircraft and (2) some of these aircraft operate in countries that do not meet international safety standards, no assurance exists that U.S. passengers will be flying in safe aircraft after the aircraft return to U.S. operation. GAO recommended that FAA require owners of U.S.-registered aircraft to notify FAA when they change from a foreign to a U.S. lessee and identify the parties involved, and inspect these aircraft when they enter the United States, particularly if they are from countries that do not meet international safety standards. FAA has not yet responded to these recommendations, despite a legal requirement to do so within 90 days of issuance of the report.

A March 1994 GAO report, "FAA and the State Department Can Better Manage Foreign Enforcement Cases" (GAO/RCED-94-87), found that FAA and foreign governments were not working closely to ensure that safety violations were prosecuted. The report also found that instead of enhancing the enforcement referral process, the State Department viewed its responsibility as being a conduit and served a limited role in ensuring that safety problems were addressed. GAO recommended that FAA determine the final disposition of enforcement cases referred to foreign governments and inform foreign governments of the disposition of enforcement cases that they refer to FAA. The report also recommended that the Secretary of Transportation and the Secretary of State work together to reach agreement on the best way to facilitate FAA's efforts to address regulatory violations, including (1) developing direct contacts between FAA and foreign aviation authorities, where appropriate and when countries are willing to do so; (2) ensuring that foreign governments are apprised of violations in sufficient time to act within the appropriate statute-of-limitation period; and (3) following up to determine whether foreign governments addressed

safety violations and ensuring that responses are communicated to FAA. FAA has not responded to the above-cited recommendations.

The State Department reported that the Department and FAA have developed a new standard operating procedure for the handling of foreign enforcement cases. Under this procedure, the State Department, when referring air safety violations to foreign governments, requests (1) action from the host government within 90 days, (2) follow-up if no action has been taken within 90 days, and (3) referral to FAA if no action is taken within 180 days to determine what further handling is appropriate.

#### HEARING ISSUES

In its Foreign Assessment Program, the Federal Aviation Administration primarily assesses the competence and technical capability of foreign civil aviation authorities, not the safety of individual foreign aircraft. FAA believes that with air carriers from 93 countries now flying into the United States, it is not realistic to expect the agency to expand its current aviation safety program to include oversight responsibility for individual foreign airlines. In view of FAA's policy of conducting limited inspections of foreign aircraft operating in U.S. airspace, it is reasonable to ask whether two levels of safety exist for the travelling public—one level for U.S. airlines and another level for foreign airlines—and, if so, if there is something we can do to reduce that disparity or if it is sufficient to present the information to the public and let them make informed choices.

ICAO safety standards represent the minimum standards that each member carrier must meet in order to fly in U.S. airspace. U.S. aviation standards far exceed ICAO minimums. Therefore, even assuming that a foreign aviation authority meets ICAO standards, it is likely that a passenger will be safer on a U.S. airline than on many foreign airlines. (Of course airlines from the major industrialized countries of Europe and the Pacific Rim also have safety standards that considerably exceed the ICAO minimums.) One solution would be to strengthen the lowest common-denominator standards in the Chicago Convention.

Currently there are over 400 foreign air carriers representing about 90 countries or regional alliances that have FAA approval to conduct operations to or from the United States. With international enplanements projected to increase six percent a year through the year 2005, the number of airlines and countries desiring to offer service to and from the United States is likely to increase. The FAA will not only need to complete assessments of approximately 60 countries over the next two years, but it will also need to conduct reassessments of some countries. For example, FAA will need to reassess countries that hope to move from the "unsatisfactory" or "conditional" categories to the "acceptable" category. These demands may stretch FAA's resources. Moreover, some countries previously rated acceptable may have suffered a reduction in their safety oversight capability and will need to be reassessed.

## HEARING WITNESSES

*U.S. General Accounting Office*

The U.S. General Accounting Office [GAO], which has monitored FAA's implementation of the Foreign Aviation Assessment Program, will testify about how serious a problem foreign airline safety is and make recommendations for improving U.S. oversight of foreign airlines operating in U.S. airspace. GAO will also summarize its findings and recommendations in the following three GAO reports: "Increased Oversight of Foreign Carriers Needed" (GAO/RCED 93-42, November 20, 1992); "Unresolved Issues Involving U.S.-Registered Aircraft" (GAO/RCED-93-135, June 18, 1993); and "FAA and the State Department Can Better Manage Foreign Enforcement Cases" (GAO/RCED-94-87, March 17, 1994).

*Federal Aviation Administration*

The Federal Aviation Administration witness will discuss how the Foreign Aviation Assessment Program works, how serious a problem the assessments have revealed, and what action FAA takes when it discovers shortcomings in a country's safety oversight. FAA will also discuss planned follow-up and potential ways of improving the program.

*U.S. Department of State*

The State Department witness will testify about the Department's role in facilitating the Foreign Assessment Program and describe the level of cooperation received from foreign governments that have taken part in the program. State will also detail improvements it has made to ensure more timely processing of enforcement cases filed against foreign carriers violating U.S. Federal Aviation Regulations.

*National Air Carriers Association*

On behalf of U.S. air charter operators, the witness will comment on the quality and frequency of inspection received by foreign airlines traveling to the U.S. NACA will also recommend additional steps that could be taken to enhance the safety of foreign air carriers operating in U.S. airspace.

*International Airline Passengers Association*

The International Airline Passengers Association has conducted independent studies of international airline safety. The IAPA witness will comment on the adequacy of foreign airline safety and highlight differences between IAPA's and FAA's assessments of aviation safety in Columbia.

TABLE 1.—RESULTS OF FAA ASSESSMENTS

Countries which FAA has determined do not meet international aviation safety standards:

Belize	Nicaragua
Dominican Republic	Paraguay
Gambia	Uruguay
Ghana	Zaire
Honduras	

Countries which FAA has determined meet international aviation safety standards:

Argentina	Costa Rica
Bahamas	Mexico
Bangladesh	Oman
Brazil	Panama
Bulgaria	Peru
Chile	Ukraine
Columbia	Venezuela

Countries which FAA has determined meet international safety standards for operations conducted to and from the United States, but not to third countries:

Guyana	
Marshall Islands	
Organization of Eastern Caribbean States (includes Antigua and Barbuda, St. Kitts and Nevis, St. Vincent and the Grenadines, Dominica, St. Lucia, Montserrat, Grenada and Anguilla).	

Countries which have conditional acceptance ratings that allow their carriers to fly into the United States under heightened FAA inspections:

Bolivia	Guatemala
El Salvador	Netherlands Antilles



# FEDERAL AVIATION ADMINISTRATION'S OVERSIGHT OF FOREIGN AIRLINE SAFETY

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TUESDAY, OCTOBER 4, 1994

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT,  
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,  
*Washington, DC.*

The subcommittee met, pursuant to call, at 9:35 a.m., in Room 2167, Rayburn House Office Building, Hon. Robert A. Borski (chairman of the subcommittee) presiding.

Mr. BORSKI. The subcommittee will come to order. The subcommittee today will be examining how effectively the Federal Aviation Administration evaluates the safety of foreign airlines and what actions FAA has taken to ensure the safety of American citizens.

This hearing marks a 4-year effort by this subcommittee to highlight the problem of unsafe foreign airlines that are entering U.S. air space without meeting anything approaching our safety standards. For the first time, FAA has announced a clear policy for its assessments of foreign safety standards. Just as important, there is now a policy to inform the public of which nations fail to meet the required safety standards.

I congratulate the FAA for moving forward with this policy. As the world becomes a smaller and more mobile place, it is absolutely essential that we take the steps necessary to ensure that American citizens are flying on aircraft that meet minimal safety standards and that unsafe aircraft are not entering our country.

People associated with the airline industry and with DOT have said repeatedly that the U.S. aviation system is the safest in the world. On this subcommittee, we have been concerned that the lack of oversight on foreign airlines has been a major gap in our safety program.

While there are many nations that have safety standards the equivalent of our own, there are far too many that have barely acceptable programs if they have any safety programs at all.

For the thousands of Americans who fly on foreign airlines every year, it is simply not good enough to say we can't do anything about it.

It is not enough to say that diplomatic protocol or international treaties prevent us from making sure that American citizens are safe and that their lives are not in danger.

Our huge aviation market and the great number of Americans who fly foreign airlines give us tremendous leverage with other na-

tions on their safety standards. When it comes to protecting American lives, that leverage should be used.

The new policy announced by FAA on September 2 appears to go a long way toward meeting our concerns. This hearing will provide an opportunity to review that new policy and for us to make a determination on whether further actions are needed. I now recognize the distinguished Ranking Member, the gentleman from Oklahoma, Mr. Inhofe.

Mr. INHOFE. Thank you, Mr. Chairman. The hearings today are of special interest to me. I think you probably know my largest employer is American Airlines maintenance depot, and I follow these things very closely, and my constituents applaud the FAA for their efforts in looking into the relative safety standards between foreign carriers and those of the United States.

The minimum ICAO standards are basic and should without question be at the core of any airline open for business. We have learned at the American Airlines maintenance facility in Tulsa that safety is more than just meeting the standards, it is a mind set. Enforcing the minimum ICAO safety standards is the first step in exporting this safety first mind set, and as a result, increasing the level of safety for the flying public. Mr. Chairman, I applaud you, as usual, for your foresight in having these hearings.

Mr. BORSKI. The Chair thanks the distinguished gentleman. We would like to welcome our first witness this morning, Mr. Allen Li, Associate Director for Transportation Issues, U.S. General Accounting Office. Mr. Li is accompanied by Mr. Roy Judy and Mr. Joseph Kredatus. Both are senior evaluators at U.S. General Accounting Office. May I ask you to stand and raise your right hand?

[Witnesses sworn.]

Mr. BORSKI. Thank you. You may be seated. Mr. Li.

**TESTIMONY OF ALLEN LI, ASSOCIATE DIRECTOR, TRANSPORTATION ISSUES, RESOURCES, COMMUNITY, AND ECONOMIC DEVELOPMENT DIVISION, U.S. GENERAL ACCOUNTING OFFICE ACCOMPANIED BY ROY JUDY, SENIOR EVALUATOR, U.S. GENERAL ACCOUNTING OFFICE; AND JOSEPH KREDATUS, SENIOR EVALUATOR, U.S. GENERAL ACCOUNTING OFFICE**

Mr. Li. Good morning, Mr. Chairman and members of the subcommittee. As requested by the subcommittee, I will limit my remarks to 10 minutes. I request that my entire statement be inserted for the record.

Mr. BORSKI. Without objection, it is so ordered.

Mr. Li. We welcome the opportunity to testify on FAA's efforts to improve its oversight of foreign countries' civil aviation safety programs as well as their individual carriers that fly into the United States. As you said, as air travel becomes more global, the importance of this issue increases.

More than 300 foreign carriers from over 90 countries are currently licensed to fly into and out of the United States. Responsibility for safety oversight is shared among several parties. Under an international agreement administered by ICAO, that is the International Civil Aviation Organization, overseeing the safety of air

carriers is primarily the responsibility of the country in which the aircraft are registered.

Consistent with this agreement, FAA relies on the country in which the aircraft are registered to make in-depth inspections of their carriers that fly into the United States. However, if FAA has evidence that a foreign-registered carrier operating in the United States is not meeting international safety standards, it can perform a more comprehensive inspection of the carrier.

As early as 1991, this subcommittee expressed concerns about the ability of some foreign governments to provide adequate oversight of their carriers flying into the United States. The subcommittee subsequently asked us to review several key aspects related to foreign carriers. Our testimony today is based on these reviews.

In summary, although FAA has taken a number of steps to improve its oversight of foreign countries' civil aviation safety programs and their individual carriers, we believe it could do more. The agency has completed assessments of the oversight capabilities of the civil aviation authorities of 30 countries. Secretary Peña recently announced the results of these assessments.

Furthermore, FAA is working with foreign aviation authorities to improve their safety oversight programs. It is also increasing the frequency of its inspections of those carriers with identified safety deficiencies. In addition, FAA and the State Department have developed improved procedures for tracking enforcement cases referred to foreign governments for action. These are steps in the right direction and largely address the thrust of our prior recommendations. However, we believe that FAA can further refine its oversight efforts by implementing other recommendations we have made.

I will now address these individually. Our first set of recommendations pertain to FAA's oversight of foreign civil aviation safety programs and carriers. In addition to working with the governments of other countries to assess and improve their civil aviation programs, FAA also inspects individual foreign air carriers when they fly into the United States.

In our November 1992 report, we said that FAA's inspections of these foreign aircraft were primarily limited to examining aircraft markings, pilot licenses, and air worthiness certificates. While this level of review is consistent with international agreements, it represents only a limited inspection. However, under this agreement, FAA can also perform comprehensive inspections of the carriers' aircraft when its inspectors find serious deficiencies.

A comprehensive inspection includes an examination of such areas as flight controls, fire protection, fuel levels, and engine controls. We recommended that FAA perform comprehensive inspections of foreign carriers that fly into the United States under two scenarios. First, when it finds that their home governments do not comply with international safety standards and, two, when it becomes aware of serious safety problems through other sources such as foreign civil aviation authorities.

In its formal response to our report, FAA advised us that it was instituting a Special Emphasis Program. Under this program, FAA develops a quarterly list of foreign carriers known to have or sus-

pected of having safety shortcomings. FAA then targets them for more frequent inspections. However, FAA has not directly addressed our recommendation that it perform more comprehensive inspections of troubled carriers. Its special emphasis guidelines still call for limited inspections.

Our second set of recommendations dealt with the management of enforcement cases by FAA and the State Department. When FAA inspectors find safety violations by foreign carriers, the agency generally refers the resultant enforcement cases to the appropriate foreign governments. This is done through the State Department.

Enforcement actions include warning letters, civil penalties, suspensions, and license revocations. Such actions respond to serious violations of aviation procedures or rules, such as excessive aircraft weight, insufficient fuel, and unqualified pilots.

In March 1994, we reported that FAA and the State Department had not adequately managed enforcement cases. In June 1994 the State Department formally responded to our recommendation that it work with FAA to track enforcement cases. The State Department said that it has revised its procedures to require its embassies to follow up on referred cases if the foreign governments do not respond to the embassy within 90 days.

We believe this requirement is a positive step that addresses one of our recommendations. We also recommended that FAA determine the final disposition of enforcement cases referred to foreign governments. Our concern was that FAA be able to confirm that serious safety violations have been corrected. FAA has not yet formally responded to this recommendation.

Our third and final set of recommendations pertain to FAA's inspections of foreign-operated, U.S.-registered aircraft operated outside of the United States.

In June 1993, we reported that FAA performed infrequent inspections of U.S.-registered foreign aircraft. FAA had difficulty inspecting U.S.-registered aircraft operated by foreign carriers because such aircraft often changes hands among U.S. and foreign carriers through leasing arrangements. Furthermore, FAA did not track the aircraft's overseas operations, nor did the agency keep records showing whether the carriers had FAA-approved maintenance programs.

We recommended in our June 1993 report that FAA: (1) Require owners of U.S.-registered aircraft to notify FAA when the aircraft are transferred from a foreign to a U.S. lessee; (2) identify the parties involved; and (3) inspect the aircraft when they return to operation in the United States, especially if they are from countries that do not meet international safety standards. FAA has not yet formally responded to these recommendations.

In conclusion, Mr. Chairman, international air travel is on the rise. As a result, the safety of foreign carriers will continue to be an important issue. DOT, FAA, and the State Department have initiated a number of actions over the last three years that, taken as a whole, will improve the safety oversight of foreign carriers. We believe that it is important for FAA to continue its efforts to monitor the compliance of foreign countries and carriers with international safety standards.

We realize that DOT, FAA, and the State Department face diplomatically sensitive situations in working with sovereign countries to ensure safety, even though international agreement allows FAA to ensure that foreign carriers flying into the United States are safe. Nonetheless, we believe that if FAA implemented a number of our recommendations, it could further improve its efforts to oversee the safety of foreign carriers.

Mr. Chairman, this concludes our statement. We will be glad to answer any questions you may have at this time.

Mr. BORSKI. Thank you very much, Mr. Li. Do you think the FAA provides U.S. citizens the information they need to make intelligent choices about what foreign airlines they will use when flying abroad?

Mr. LI. I believe that the recent announcement by Secretary Pena in identifying the countries and the procedures that both the State Department and FAA have implemented for ensuring that follow-up on enforcement actions is done are positive steps on the part of the administration.

Mr. BORSKI. Mr. Li, in reviewing how FAA does its foreign assessments, did your staff find that FAA actually checks on how often foreign governments enforce their own airlines?

Mr. LI. Mr. Kredatus?

Mr. KREDATUS. Yes, Mr. Chairman, when FAA is in country they do ask questions about enforcement. They attempt to discuss with the foreign civil aviation authorities the support that the authorities have for making certain statements for example, about enforcement systems. However, in balance, you have to remember too, that FAA is not there to do an audit, and it is a diplomatically sensitive situation. FAA officials make a reasonable effort to ask intelligent questions and examine supporting records, but they can only go so far.

Mr. BORSKI. They can only ask, they can't check themselves?

Mr. KREDATUS. I did not hear your question.

Mr. BORSKI. They can only ask governments how it operates. They can't check these airlines themselves?

Mr. KREDATUS. They do make an effort to check the records that the foreign authorities have. They also visit some of the airlines in the country, the new applicants applying for authority, and make a judgment about those new applicants themselves. In the past there have been instances where they have also looked at, I believe, some established carriers in the country visited, so they do attempt to verify first hand.

Mr. BORSKI. Mr. Li, in reviewing FAA's process for conducting safety assessments of foreign countries, did you generally find it a satisfactory process?

Mr. LI. Yes. As I said, this is not only because of the Foreign Assessment Program it is also because of the activities that they have under way right now. I understand FAA is trying to establish or negotiate some bilateral safety agreements with several countries. Another positive aspect is that FAA is working with some of the Third World countries in upgrading their civil aviation authorities' technical capabilities. These are some positive steps that I think bode well for the safety of foreign carriers.

Mr. BORSKI. GAO has recommended more comprehensive inspections of airlines suspected of having safety shortcomings. What does the Chicago Convention allow FAA to do in the way of comprehensive inspections and why do you think FAA needs to do more comprehensive inspections of foreign aircraft?

Mr. LI. That is a good question. The comprehensive inspections that we speak to in our statement are permitted under ICAO standards. When any ICAO member suspects that an aircraft has safety deficiencies, and in the case of FAA, when they have assessed that a country's civil aviation authority does not meet safety standards, these are sufficient reasons for them to perform a more comprehensive inspection of the aircraft.

As I said in my statement, a more comprehensive inspection would entail more than just walking around the aircraft, but also looking at certain functions such as engine controls and flight controls of the aircraft.

Mr. BORSKI. Mr. Li, the Foreign Safety Assessment Program is designed to bring foreign airlines up to international standards, but those international standards may be substantially below U.S. standards. Can you give us any examples of ways in which international safety standards fall below the standards that FAA sets for U.S. airlines.

Mr. LI. When we talk about the ICAO standards and the minimum safety standards, the ICAO standards were established as a baseline from which individual countries develop their regulations. It should not be construed by the flying public that just by the mere fact that U.S. standards are different from the ICAO standards that this necessarily translates into ICAO standards being unsafe.

I wanted to make sure that was understood. But, yes, there are differences. The FAA's regulations (FARs) are indeed more detailed than the ICAO standards, and I believe we do have some examples.—Mr. Judy?

Mr. JUDY. Yes, Mr. Borski, just to make it clear, too, and elaborate on what Mr. Li said, as part of our work for you, we did not do a comparative analysis of the standards of ICAO with the FAA's FARs. However, we can provide you with some insights of the ICAO standards and how they may differ in terms of more specificity than that laid out in the FAA standards.

I have three examples to illustrate this. One is with regard to oxygen on aircraft. ICAO requires oxygen to be carried on board the aircraft in the event of loss of pressurization. That is the minimum requirement that is laid out. Now, FAA requires U.S. carriers to provide enough oxygen for every passenger for flights at cabin pressure altitudes above 15,000 feet and all large, U.S.-manufactured aircraft provide oxygen through a drop-down system. You won't find those specifics in ICAO standards.

Another example is fire extinguishers. ICAO requires at least one fire extinguisher located in the pilot's compartment and at least one in each passenger compartment that is not readily accessible to the flight crew. FAA requires fire extinguishers also in the pilot's compartment, but it requires a different standard for extinguishers in the passenger compartment. I will give you an example of that.

If the number of passengers is 31 to 60 on board the aircraft, two extinguishers are required. If there are 300 to 400 passengers, five extinguishers would be required. There is a big difference there in terms of specificity. Another example would be flight attendants or cabin attendants. ICAO just requires that the operator establish the minimum number of cabin attendants for each type of airplane based on the capacity or the number of passengers on the aircraft.

FAA, on the other hand, has a specific chart or table that lays out in essence that you will have one flight attendant per every 50 seats on the aircraft. These are just some examples to illustrate the differences between ICAO and FAA standards.

Mr. BORSKI. Are there particular airlines or countries who perhaps meet or exceed our standards and others who are substantially below? Have you found anything like that in your investigations?

Mr. JUDY. FAA has recently announcement the nine countries that did not meet minimum standards of ICAO. FAA looks at IAO standards when they do their assessments. These countries too would be below FAA's standards.

Mr. BORSKI. I am thinking more of the maximum standards that we have set. Do most airlines in Europe, for instance, meet our standards.

Mr. KREDATUS. Clearly, the countries in western Europe are on a par with our own standards.

Mr. BORSKI. Are there any areas where the standards are much lower?

Mr. LI. As I said, I think that it is in the level of detail that Mr. Judy described. It should not be construed that just because the level of detail is not there that they are unsafe.

Mr. BORSKI. You testified that FAA allows airlines from countries that do not comply with international standards to make alternative arrangements so that they can fly in the United States. Would you elaborate on this for me, please?

Mr. LI. Yes, Roy, would you please answer? This is on the issue of wet leases, I believe.

Mr. JUDY. The percentage of leased aircraft in the United States has grown from about 12 percent in 1980 to over 50 percent in 1990, and it is expected to grow to at least 75 percent by the year 2000. This rampant growth in leasing raises some particular problems for the FAA because FAA has a difficult time tracking leased aircraft.

We did some further analysis for you in 1992 where we looked 375 foreign-operated, U.S.-registered aircraft and found that 201 of those were leased at least once. Further checking showed that FAA had difficulty inspecting those aircraft because they did not track their operations overseas.

Mr. LI. So leasing is one type of alternative arrangement. In other words, if FAA assesses that the civil aviation authority of a particular country does not meet ICAO standards, that particular country can still have its carriers come into the United States. However, there are two specifics that would be applied.

One is that obviously there would be more heightened inspections on the part of FAA, but also as Mr. Judy was saying, they are also permitted to fly in if they make some alternative leasing

arrangements; that is using another country's crews and aircraft that have been approved and meet the ICAO standards.

Mr. KREDATUS. Commonly called wet lease arrangements.

Mr. BORSKI. But the country that is doing the actual flying has met the standards?

Mr. LI. Absolutely. That is correct.

Mr. BORSKI. Also in your June 1993 report you said FAA has had difficulty inspecting foreign-operated, U.S.-registered aircraft partly because of the same leasing arrangements. Do you believe this problem is likely to continue?

Mr. LI. Absolutely. If you take a look at past history in the 1970s, maybe one out of every four aircraft had been leased, and today we are probably talking about half, one out of every two. We think that by the year 2000 under the current economic conditions that three out of every four aircraft will be leased. So with that increase in population, I think that you can pretty much expect that this will continue to be a problem.

Mr. JUDY. I would like to add to that Mr. Chairman. The maintenance issue is a real concern to us as well, particularly when the aircraft transfers from foreign to U.S. operation. We did a test of these type aircraft that FAA did not inspect and we found that FAA could not provide historical data on whether or not some of these aircraft operators had approved maintenance programs. That of course raises some concern to us in this area.

Mr. BORSKI. One final question. Most Federal agencies, GAO among them, but for now we will talk about the FAA, are currently experiencing work force reductions. Is FAA's inspector work force subject to this downsizing and what effect could that have on our inspection program?

Mr. LI. This has been a major discussion topic that I have had with FAA for the past few months. All safety work forces have been exempt from this downsizing with the exception of the supervisors and the managers. It is my understanding that in Mr. Broderick's unit, which has about 4,000 employees, that 88 have taken advantage of the buy-out provisions. Whether or not this is a significant enough number to say that downsizing is going to impact their mission is hard to tell.

I think that you would have to take a look at two things. One is are they all located in the same unit, and if that is a critical mass. That would really concern me. But since you are giving me the opportunity, it does worry me that when we are only targeting safety work forces as the inspectors, maintenance technicians or controllers—being those people that are exempt. There are many other people that are in support of these safety work forces that are very, very important who are not exempt.

For example, I spoke in my statement about the enforcement cases. Many of these people that are not exempt from the buyouts are likely to be either attorneys or in administrative support. If these people are impacted, then that would obviously impact upon FAA's capability to enforce these cases.

Mr. BORSKI. Okay. We have no further questions. Let me thank you, Mr. Li, Mr. Judy, Mr. Kredatus for your help, not just today, but for the past several years, you have done a great job with us. Thank you.

On our second panel we have Mr. Anthony Broderick, Associate Administrator for Regulation and Certification, Federal Aviation Administration. Mr. Broderick is accompanied by Mr. Timothy Neel, Aviation Safety Inspector. We also have Mr. James R. Tarrant, Deputy Assistant Secretary for Transportation Affairs, U.S. Department of State. Could I ask you to please stand and raise your right hand before you sit.

[Witnesses sworn.]

Mr. BORSKI. Thank you. You may be seated. Mr. Broderick.

**TESTIMONY OF ANTHONY J. BRODERICK, ASSOCIATE ADMINISTRATOR FOR REGULATION AND CERTIFICATION, FEDERAL AVIATION ADMINISTRATION ACCOMPANIED BY TIMOTHY NEEL, AVIATION SAFETY INSPECTOR; AND JAMES R. TARRANT, DEPUTY ASSISTANT SECRETARY FOR TRANSPORTATION AFFAIRS, U.S. DEPARTMENT OF STATE**

Mr. BRODERICK. Good morning, Mr. Chairman. I would like to briefly summarize my statement and enter the full statement for the record, if that is okay.

Mr. BORSKI. Without objection, it is so ordered, and absolutely preferred. Thank you, sir.

Mr. BRODERICK. With me, as you indicated, is Tim Neel. Tim is one of the folks in our international operation who has actually led a number of these assessments, and his comments may be quite illuminating on some of these things.

Mr. Chairman, at the outset let me express my sincere appreciation to you and other members of the subcommittee for your long-standing interest in this program and your support of our strengthened international aviation safety practices.

As you know, we began this international aviation safety assessment effort in June 1991, following the subcommittee hearing on this subject. We began this effort by sending evaluation teams to work cooperatively with foreign governments in determining the adequacy of their regulations governing operation of commercial aircraft.

Our goal has been to ensure that international air carriers operating to or from the United States are properly licensed, supervised, and overseen by a competent civil aviation authority that has appropriately trained staff and resources to license and inspect air carriers in accordance with ICAO standards.

Of the 30 countries we have assessed so far, 17 of these countries are classified as category I countries, meaning that they met all of the criteria we set for finding a country in compliance with ICAO standards at the time of our assessments.

Four countries are category II countries, which means that while they are not found to be in full compliance with ICAO standards, they are working with the United States to achieve full compliance, and we expect that compliance to be fully achieved in a matter of months. Air carriers flying under the flags of these four countries are permitted to continue operations to or from the United States, subject to heightened inspections by FAA personnel, and conditional upon their maintaining active negotiations with us to implement a process to correct deficiencies.

There has been, Mr. Chairman, some misunderstanding about the safety of carriers operating from category II countries into the U.S. I want to stress that if we had any information indicating safety concerns about these operators, we would not permit them to operate in the U.S. In fact, there are a number of excellent airlines operating from category II countries, and we will continue to work aggressively with their governments to eliminate the safety oversight shortcomings that our teams have identified.

Nine countries we assessed do not meet ICAO standards. Carriers which receive their safety oversight from these countries are not permitted to conduct operations into the United States. These countries had one or more failings in their basic aviation infrastructure, including no mechanism for the development of adequate civil aviation laws or regulations, or lack of technical expertise or resources necessary to license and oversee civil aviation or lack of an ability to certify, oversee, and enforce air carrier operations or maintenance requirements, or lack of appropriately trained inspector personnel.

Carriers whose countries do not have an acceptable level of oversight from their CAA are not permitted to operate into the United States. Airlines may, however, operate from those countries to the United States if arrangements are made to have those flights conducted by carriers from another country whose civil aviation authority provides internationally acceptable oversight.

In this manner, several carriers have found a solution in the establishment of a wet lease with a carrier based in a nation where that country's CAA has been found in compliance with the ICAO aviation safety standards. This lease arrangement can allow the carrier to continue operations to and from the United States.

By the end of this year we expect to have made public the results of the assessments of over 60 of the 93 countries whose carriers now operate into the United States.

Both Secretary Peña and Administrator Hinson have asked me to express today the gratitude of DOT as a whole and the FAA in particular for the extensive assistance and cooperation of the State Department in our assessment efforts, without which this program simply could not have proven so successful.

I can personally add that the assistance we have received from both DOT's Office of the Secretary and the Department of State, at every level, has made what could have been an impossible job, one that has progressed smoothly and quickly, and one in which we take great pride.

We will remain constantly alert, Mr. Chairman, for any signs or information that would prompt us to reassess a country that has already been found in compliance with ICAO standards. We will continue to work cooperatively with the State Department and with other governments to keep abreast of all relevant information in this regard.

We will also continue to make available our technical resources for training, workshops, and other assistance to international civil aviation authorities that request that assistance.

We have sponsored, for example, a Partnership 21 seminar for Latin American countries in Oklahoma City, a flight standards technical assistance seminar series in Costa Rica, India, and Peru,

and seminars for Russian civil aviation officials at our Center for Management Development in Florida. We have also plans to participate in an ICAO aviation safety workshop in Delhi next February being convened by the Asia Pacific region.

We are grateful for the financial assistance of the Agency for International Development in our cooperative activities with Russia and look forward to continuing and expanding that program in accordance with our evaluation's recommendations.

Our recently enacted reauthorization legislation gives us expanded authority to provide safety-related training and operational services to international aviation authorities with or without reimbursement, if providing those services promotes safety. Since about 50 percent of the passengers on international carriers flying into or out of the United States are U.S. citizens, such assistance clearly has benefits here at home.

While we have in the past been able to provide some technical assistance to countries that have received negative assessments, our fiscal limitations pose a barrier to significantly expanded work in this area. We will be exploring options for funding this program, perhaps in a manner similar to the Anti-Terrorism Assistance Program, which is funded with foreign assistance funds earmarked for that purpose by the Congress.

We are also continuing our work within ICAO to strengthen the international aviation safety environment. For example, in September 1992 a resolution calling for increased attention to aviation safety issues was proposed by the United States. Canadians co-sponsored it, and it was adopted by the full ICAO assembly.

ICAO, at FAA's urging, has now initiated an Air Navigation Study Group to review and address international safety oversight and ICAO standards compliance issues with a report to be forwarded by the study group to the assembly in 1995. We are very actively involved in this effort.

Finally, I would like to note the steps we have taken to improve our inspections of international aircraft operating into and out of the United States. Since 1991 we have specially trained over 200 inspectors to inspect international aircraft, with emphasis on ICAO standards and recommended practices and operational and maintenance requirements. We have also established special offices in Miami, New York, and San Francisco to respond better to concentrations of international air carrier activity.

In closing, Mr. Chairman, I would like to emphasize the seriousness with which we are working to promote safety in international aviation operations. We will continue to work bilaterally and multilaterally to foster a cooperative international climate within which this goal can best be achieved. But we are also determined to prevent unsafe operations within our own border, and we will take such actions as are needed to meet that responsibility.

As we continue this important work, we look forward to the continued interest and support of this subcommittee, along with the willing assistance that we have received from the Department of State, from ICAO, the Department of Transportation's Office of the Secretary, and our colleagues and international CAA's around the world. Thank you.

Mr. BORSKI. Thank you, Mr. Broderick.

Mr. Tarrant.

Mr. TARRANT. Thank you, Mr. Chairman. I am pleased to have the opportunity to appear before you this morning to testify with specific regard to the State Department's role in assuring the safety of foreign airline operations conducted in U.S. air space. With your permission, I would also propose to have my full remarks incorporated in the record and cover only the main points this morning.

Mr. BORSKI. Without objection, so ordered.

Mr. TARRANT. Let me say at the outset that I and my colleagues in the department consider aviation safety to be of paramount importance. In the realm of aviation, the U.S. Government's first obligation must be to ensure the safety and security of airports, aircraft, and the people who travel on them and through them. We have worked very closely with the FAA here and abroad to pursue that goal.

I am pleased to confirm, as Mr. Broderick has pointed out, that the two agencies are in harness. They are pulling very well together to achieve the objectives that I think are of primary concern to this committee.

Mr. Chairman, you indicated an interest in the State Department's particular role in the Foreign Aviation Assessments conducted by the FAA. Broadly speaking, the State Department advises the FAA on international issues and supports the FAA in carrying out its mission. We are guided essentially by the Federal Aviation Act, which states in particular that the Secretary of State shall advise and shall consult with the FAA administrator concerning the negotiation of any agreement with foreign governments for the establishment or development of air navigation.

As this committee knows, on September 2, Secretary Pena made public the results of some 30 assessments that Mr. Broderick had mentioned have been conducted since 1991. I would like to very briefly relate the department's role in this process.

First of all, last June I convened a meeting at the State Department attended by senior representatives of the FAA, the Department of Transportation, and I think importantly, Mr. Chairman, the relevant geographic bureaus within the State Department. We developed, working together, an administration-wide plan to ensure fairness to our aviation partners and to the achievement of U.S. aviation safety objectives abroad.

Like the FAA, we in the Department were aware that the release of information on safety assessments, if not done carefully, could have an adverse effect on FAA's cooperation with some of our aviation partners, especially those partners that were going to be found in noncompliance. We all agreed on the importance of informing governments beforehand about the change of policy and the announcements that were going to be made.

With the policy agreement confirmed in that meeting, my staff then prepared a series of instructions that have gone to every U.S. embassy in the world. There have been a series of these, and I don't propose to go into them now in any detail, Mr. Chairman, unless you would particularly like to hear them since they are covered in my testimony.

The State Department also immediately incorporated the newly-released safety oversight assessments as an element of the public consular information sheets that we publish for the American public.

By and large I think, Mr. Chairman, the release of the assessment results have gone well. They have been fairly well received by foreign governments. As you might expect, a handful of governments were disappointed in the results of the assessments. Nevertheless, they have not questioned the validity of the FAA's findings.

A number of countries whose aviation authorities are not in compliance with ICAO standards have indicated that they would like the FAA's advice and assistance in order to bring their own authorities' safety oversight up to international standards. I think, Mr. Chairman, I would add that that says a great deal about FAA's approach to working with our international partners, not a punitive one, but one of assistance and training and help.

Working together on the public release of these safety assessments, both agencies, I believe, have secured two important benefits. First, the American traveling public is now able to make more informed choices about air safety overseas; and, secondly, foreign governments now have an even greater incentive to strive for higher standards of aviation safety oversight.

Turning to another topic, Mr. Chairman, you asked for some specific information about the Department's processing of cases of violations of FAA air rules by foreign airmen, foreign aircraft. Earlier this year, we looked at the system in place for referring cases of air violations from FAA to our countries, allies abroad, and vice versa.

I must say it was a good example of how the GAO can be extremely constructive. We concluded from their assessment that there was room for improvement. We worked on their recommendations, and then after consulting with the FAA's Office of the Chief Counsel, we devised a new operating procedure within the State Department. Now, when the FAA submits to the Department's Office of Aviation Programs and Policy a request for investigation, we immediately instruct our overseas post to request that host government investigate each incident in which one of their airmen is alleged to have violated FAA air rules while in U.S. air space.

We then have a system set up, a new system to follow up and ensure the resolution of each case. No more examples of things sitting in files just waiting and hoping that somebody might act on them at some point, Mr. Chairman. Since the inauguration of this new procedure in my office on March 8, we have referred 18 cases to overseas posts. Of these, six have prompted a complete investigation by the host government. The results of these investigations have been relayed to FAA. Eleven cases are pending.

In general I believe the new process is working well thus far. We will be fine-tuning it as the need arises, but basically I think, Mr. Chairman, at this point I am quite pleased with the new process.

Let me summarize with these concluding thoughts, if I may. First, the Department of State is committed to making sure that international air travel is safe and secure for the American travelling public. We work closely with the FAA in making public the results of its aviation assessments. We think that the releases of in-

formation will enable travelers to plan their journeys better and that it will encourage governments to exercise proper aviation oversight.

The Department also wants to make sure that foreign governments act on reports of violations of air rules. The system we have introduced, I believe, will do that effectively. Thank you, Mr. Chairman.

Mr. BORSKI. Thank you very much, Mr. Secretary. Mr. Broderick, let me start with you, if I may. Can you assure the millions of American citizens who fly each year on foreign airlines that FAA is doing all that it can to find unsafe conditions and to let passengers know which airlines are unsafe?

Mr. BRODERICK. Mr. Chairman, I think we have put together a comprehensive program that not only addresses the fundamental issues but makes the information public in the most useful possible way. I note that what we are doing is not, if you will, publishing a list of airlines. For a lot of technical and practical reasons it is very difficult to do that, but what we are doing is publishing the results of assessments of governments whose responsibility, after all, it is to perform the safety oversight on the airlines operating in their countries.

Mr. BORSKI. Can you assure the American public that every plane entering U.S. air space is safe to fly on?

Mr. BRODERICK. One can never assure or ensure that every single flight on every airplane is safe, but what I can ensure people is that we have in place a system that rests under the umbrella of a series of international agreements that ensures that governments that are found to be acceptably complying with those agreements are providing the appropriate safety oversight to do all that we together can do to promote the safety of flight on each individual flight.

Mr. BORSKI. Mr. Broderick, and Mr. Neel, feel free to respond if it is more appropriate.

In carrying out your foreign assessments, how do you find out whether the country is actually enforcing the regulations it has on its books? Do you require any documentation to show that carriers that violate the rules are actually sanctioned?

Mr. BRODERICK. Let me ask Tim Neel who actually has led some of these assessments to very briefly describe the kinds of records we look through when we are on site in a country. Tim.

Mr. NEEL. Yes, Mr. Chairman, we take a fairly basic approach. Going back to the infrastructure issues that Mr. Broderick mentioned earlier, we look at the law, we look at the regulations, we look at a number of technical issues, certification procedures, inspector work force, that kind of thing. It is very easily determined early on whether or not they are meeting a basic ICAO standard from a review of those types of documents.

Mr. BORSKI. Are there any sanctions that you are aware of that happen to folks who do not follow the rules?

Mr. NEEL. I am having a little difficulty hearing you, sir.

Mr. BORSKI. Are there any sanctions that you may impose upon airlines or countries that do not follow their own rules?

Mr. BRODERICK. We don't actually have an enforcement authority or mechanism in place within ICAO, but we haven't, as a practical

matter, found that to be necessary. When we find shortcomings with a country's oversight capabilities, they are, generally speaking, more than eager to address those shortcomings if they are substantial, and if they have the resources, and, of course, we have noted that not all countries are able to do that, which is why we have a list of countries that don't have acceptable oversight mechanisms.

Mr. BORSKI. Mr. Broderick, FAA is required by law to report within 60 days on how it plans to respond to any GAO recommendations. GAO's report on U.S.-registered aircraft came out in June 1993, 15 months ago. Have you reported on your response to the reports and recommendations?

Mr. BRODERICK. In talking with Mr. Li this morning, I learned that we had not. I can assure you that I will go back and try and understand what the hold up is. The fact of the matter is that we don't have any substantial disagreements with any of the recommendations on any of the three reports that Mr. Li discussed, and I regret that we haven't formally responded to GAO yet.

Mr. BORSKI. GAO recommended in a 1993 report that FAA require owners of U.S.-registered aircraft to notify FAA when they change from a foreign to a U.S. lessee and identify the parties involved, and inspect these aircraft when they enter the United States, particularly if they are from countries who do not meet international safety standards. What is your response to these particular recommendations?

Mr. BRODERICK. Well, my response would be that, and will be that we actually already do that in a somewhat different way. If an airplane is being operated by a foreign airline under a lease agreement from one of the U.S. airlines or had been operated by a foreign airline, and the next operation is intended to be by a U.S. airline, before that airline can be operated by a U.S. airline, it must have a full inspection and compliance determination made by the airline in accordance with very detailed procedures that we require them to spell out.

That includes, for example, making sure that all the repairs are up to FAA standards, all the parts are up to FAA standards, and all the maintenance that has been done in the past complies with not only FAA standards, but it has to comply with and get in synchronization with that airline's maintenance program, so in point of fact, while there isn't the kind of notification procedure that GAO requests, it is not possible to take a commercial airplane that has been operated overseas and put it on to a U.S. airline operation without having all of the kinds of inspections that GAO discussed performed and documented.

Mr. BORSKI. Mr. Broderick, our final witness today will describe his organization's assessment of aviation safety in Colombia as markedly different from FAA's assessment. The witness will describe a study that found, for example, that certain Colombian Civil Aeronautic Administration positions were occupied by unqualified personnel, that there was an absence of guidance and planning, that proper administration of the regulations that guide and ensure safety were lacking. Mr. Broderick, why does FAA's assessment, which found Colombia to be in full compliance with international safety standards, differ so dramatically from the IAPA study?

Mr. BRODERICK. Well, it is difficult to say why two assessments differ. They were done, I would expect, at different times. When we performed our assessment of Colombia, which was back in 1991, we found that they, in fact, did comply with the minimum ICAO oversight standards. If we find substantial evidence to the contrary, not only in Colombia, but in any other country that bears looking into, we will, in fact, investigate it, and if necessary update our assessments, as I mentioned in my statement.

Mr. BORSKI. Do you plan to take another look at Colombia based on this?

Mr. BRODERICK. We plan to take another look on a continuing basis at all of the countries that we have looked at. This is definitely not a snapshot or a one shot kind of program. This is a continuing effort that will not stop in the future.

Mr. BORSKI. Mr. Broderick, the International Airline Passengers Association has raised serious questions about the safety of flying into or over Russia. Does your information supports IAPA's findings, and why haven't you released your information so that U.S. passengers can make more informed decisions about flying overseas, particularly in Russia?

Mr. BRODERICK. No, our information doesn't comport with the breadth of the statements that are made by IAPA. It is true that there have been several tragic accidents recently in the former Soviet Union and Russia, in particular. It is also true, however, that that is an extraordinarily large system. It was at one time just a few years ago the largest airline operation in the world, and as one who is quite familiar with the safety issues in large airline operations, I can tell you that you cannot ever expect a perfect safety record, no matter how hard people try.

We have, at the request of the minister of transportation in Russia, recently conducted an evaluation that was far more detailed and in depth than any that we had done to date. We are just winding that up and expect to report the results of it in a few weeks. What I can tell you is that there is in place a very large aviation infrastructure in Russia. There is a very large government safety oversight infrastructure in Russia, but I don't have to tell you the enormous change that that society is undergoing as they change from a centralized command economy to a free market system, and that has with it a number of problems which can be viewed as opportunities for us to work together and share with them the experiences that we have had over the last few decades and perhaps help them accelerate their movement toward a free market economy with a real world class aviation safety oversight system.

We intend to do that with the help of the people, I mean the funding that has been made available by the Agency for International Development.

Mr. BORSKI. The FAA has its own person located in Russia now, I believe. Is the cooperation with the Russians and FAA's representative there going as well as could be expected?

Mr. BRODERICK. Oh, it is an excellent relationship. Dennis Cooper is our FAA representative in Moscow, and we have had a number of exchanges. In my testimony, I referred to a series of seminars that we had in February in Florida with senior Russian aviation safety officials.

We actually have a fairly long relationship that has changed in character over perhaps the last 20 years. We worked closely with the Russian people in the international civil aviation organization before the break up of the former Soviet Union. Since that time, in 1991, we have had a very close relationship in aircraft certification first and now in the aviation safety in general.

Mr. BORSKI. It would seem to me apparent that Russia, with its economic problems, would have some problems keeping good people in the air traffic control system.

Have you had any findings, particularly from Mr. Cooper, on that system? Is it working properly, or is there danger for U.S. citizens flying in Russia?

Mr. BRODERICK. Actually, the Russian air traffic control system that is run by Mr. Shel Komakov is an excellent example of how you can take the opportunity to go from a centralized command economy to a private enterprise organization and do it successfully.

We not only have a number of cooperative programs in the technology area, but we have had, for a number of years, had literally exchange programs with air traffic controllers starting in the Russian Far East and Alaska, where we have an obvious close proximity and close working relationship.

We have a good relationship with the air traffic control people throughout the country. They have, in fact, developed a mechanism for funding their operation and maintenance of their infrastructure and improvement through overflight charges. I think they have got a good system.

They have had recently, as pointed out in Mr. Stempler's testimony, a near mid-air collision involving two wide body jet aircraft, but the reality is that it was an anomaly. That is not the only near collision that has occurred in air traffic control systems around the world.

Those things, when you are operating literally tens and millions of flights a year, each one requiring many operations by itself, shows the frailty of the human, but not necessarily pointing to a particular series of shortcomings in any one country.

Mr. BORSKI. Mr. Broderick, the Foreign Aviation Safety Assessment program is designed to bring foreign airlines up to international standards, but those international standards may be substantially below U.S. standards.

Can you give us any examples of ways in which international safety standards will fall below the standards FAA sets for U.S. airlines and what can the FAA do within the international community to raise international standards so that they more closely match U.S. standards? And perhaps Secretary Tarrant can respond as well.

Mr. BRODERICK. As GAO testified before us, the ICAO standards really are the umbrella under which the FAA standards and every other country's standards are developed.

Maybe I should differentiate ICAO's standards and FAA regulations. There are a number of areas where they are different, but different doesn't mean necessarily worse. There are also some areas where ICAO's standards are technically more stringent than FAA, just because of the way they are written.

If we in the United States believe that we need to raise the standards in ICAO, it is our obligation to continue to do what we do quite effectively, I think, and that is to work with our colleagues in other countries in ICAO to get those changes adopted by that group.

We can't do it unilaterally, not only just because of the fact that we don't have enough votes, but because that is really not the best way to get the collective wisdom of everybody. We need to work together in these organizations to get common accepted international standards.

Mr. TARRANT. Mr. Chairman, I would add to that that I think it is important that we are vigilant and perhaps more vigorous in enforcing violations. In preparation for these talks, I asked for a copy of the outstanding cases and what has happened recently, and just to give you some sense of how it works, I am looking at the docket log here, which reads "pilot violated air traffic control instructions." At the end of the investigation, his license was suspended for 30 days, and I think for a pilot, that makes the point.

Another case here reads, "violated air traffic control runway instructions." Investigation was conducted fairly quickly. His license was suspended for 15 days. That was a case in the Philippines. Again, "violated runway instructions," case under investigation. In another instance a Cessna deviated from assigned route and failed to maintain contact with ATC. It turned out in that case that the plane was not registered in that particular country, and so the investigation goes on. But you get some sense of how we do this. We are very concerned that we follow up with each case, and that we make sure the embassy doesn't let it drift, and that we get a resolution in each case.

Mr. BORSKI. I understand and appreciate the sensitivity in dealing with other countries, and I do think you are doing a very good job with it. I guess my question is, if something serious were to come about, does the United States have the authority to enforce our law or rules if we feel that safety standards are being violated?

Mr. BRODERICK. Well, certainly if there is a violation of safety standards in the United States, we have the authority to do that. But I think, as a practical matter, just our experience over the years in working with these countries shows that if something serious happens, whether it is in our country or in some other country, they are eager to work with us to understand and resolve these issues. We don't run into a question of people disagreeing that there is a problem or disagreeing that it needs to be solved.

Air safety is not something that people want to debate about. They want to get issues resolved and behind them in the best possible way.

Mr. BORSKI. Mr. Broderick, you have about 60 more assessments to do over the next two years. How will you set priorities on which assessments to do first?

Mr. BRODERICK. We actually expect to have about 60 publicly announced and completed by the end of this year, Mr. Chairman. The reason for that is that there are about 22 countries that we don't actually need to visit.

We know them well, Western European countries, Canada, Australia, New Zealand, and Japan, for example, so when you combine

those with the 30 visits that we have already made and the seven or eight that are under way, we are up to 60 already over the next couple of years, we will set priorities in really two ways.

The first is that before a new airline is permitted to operate into the United States, we will have to have a positive assessment of that country's oversight capability. And if we don't have the assessment completed yet, they will move to the top of the list because we don't want—it is not fair to keep them waiting.

The second thing is, if any concern at all is raised to our attention that gives us a reason to believe that we ought to go to this country before the rest, we will do it that way. But I think we should be reasonably assured of completing the full set within the next couple of years and perhaps doing some follow-up investigations as well.

Mr. BORSKI. FAA normally conducts limited ramp inspections of U.S. air carriers at airports. What would trigger more in-depth inspection of a foreign aircraft?

Mr. BRODERICK. Any information from any source, most particularly the inspector actually doing the ramp inspection, but anybody else, that there is a need to go further. The limited ramp inspections really aren't all that limited. They are no more limited really than a ramp inspection on a U.S. airplane.

Perhaps the reason the word limited is used is because you can only do so much on a ramp inspection, but whether it is an American Airlines MD-11 or a China airlines MD-11, it gets the same kind of ramp inspection.

Mr. BORSKI. Last year FAA began its foreign air carrier special emphasis list. Foreign airlines on this list are given more frequent inspections than other airlines.

What criteria determines which air carriers get on this list and have you considered giving airlines on the list not only more frequent inspections, but also more detailed inspections?

Mr. BRODERICK. The list is really a set of guidance that goes out to our inspectors that says—it is produced by the folks here in the Washington national field office out at Dulles Airport, and it says, look, in reviewing the data, we have found a couple of issues in past inspections with this airline, or we have some information from somebody for some reason that it is a good idea to look a little more often at this airline.

It doesn't in any way indicate that there is a safety problem with the airline, nor should it be taken to indicate that the airlines have less compliance than those not on the list. It is just another way of prioritizing the use of our resources.

Mr. BORSKI. Do aircraft from airlines on this special list get more frequent inspections than U.S. aircraft do and are the inspections as detailed?

Mr. BRODERICK. The inspections are generally the same from a ramp inspection viewpoint, but certainly it is hard to envision any foreign airline getting the kind of inspection level that U.S. carriers do. We do approximately 400,000 surveillance inspections a year, Mr. Chairman. Obviously, the vast majority of those are done by inspectors in the United States on U.S. carriers.

Mr. BORSKI. When you began the foreign assessment program, did you expect to find that two-thirds of the countries did not meet international standards?

Mr. BRODERICK. No, we did not.

Mr. BORSKI. That finding has improved, as I understand it. Is it true that several countries that failed initially have since improved?

Mr. BRODERICK. Yes, and that is good news. It says that the program is working, and it is effecting change in the right direction and with a very good time frame.

Mr. BORSKI. And do we expect others to improve?

Mr. BRODERICK. Absolutely. We are working closely with all of the governments that have shortcomings, and intend to work with those that we find shortcomings in in the future.

Mr. BORSKI. And the cooperation there again has been good?

Mr. BRODERICK. Excellent cooperation.

Mr. BORSKI. The 1992 GAO report, "Increased Oversight of Foreign Carriers Needed", raised safety concerns about TAESA airlines.

Will you summarize for us FAA's surveillance and inspection activity conducted over the last years for TAESA, including the number of inspections made, what was inspected, and the nature of any safety discrepancies discovered?

Mr. BRODERICK. We had raised to our attention the case of TAESA because of a problem that TAESA or that the Canadians found with TAESA in Canada. We put together some inspections in the United States and found that the Canadian problems were not duplicated in the United States. They were actually related to the maintenance performed at a particular airline maintenance station, so it was understandable that there might be problems in one area, but not in another.

We have, I think, provided the staff with a list of all the recent inspections, and as you can see, they are the kinds of findings that one typically gets in inspections. They are not findings that would lead us to question the capability of TAESA, and the kind of response that we have gotten in general has been very receptive to pointing out deficiencies that were corrected.

Mr. BORSKI. Mr. Broderick, I want to get back to the countries that you initially found not to meet international safety standards. They have now been reclassified as meeting those standards.

Can you explain how these countries, which in some cases have no ability to conduct any type of safety oversight, could succeed in meeting international standards so soon?

Mr. BRODERICK. Well, I don't think it is fair to say that they have no ability to oversee the safety of their carriers. What, in fact, happened is that early in the program, when we were looking at countries, we actually only had two divisions. These were either countries that we found acceptable or countries that didn't have acceptable oversight.

When it came time to actually taking action to correct the oversight issues, we decided that there really needed to be at least three categories, and as you can see from our public announcements, even these have some fine-tuning, because several of these countries were really not far away from being fully in compliance

with the minimum ICAO standards, but because they did have a shortcoming, we couldn't say that they were.

So what we did is set up a third category that had the appearance of bringing them from unaccepted to acceptable, but in point of fact, that is not—that is not quite the full story. The fact of the matter is that we have, however, effected change.

Let me give you one specific example. In Bangladesh, we did an inspection and we pointed out, while we were there, that your country is quite close to being fully compliant, but you operate DC-10s to the United States, don't have anybody that is working for or consulting for your government that is qualified to oversee DC-10 flight operations. They very quickly remedied that issue, so we changed from a situation that might have been category 2 to one that was category 1.

As you may have seen, if you read the details of the material that we have, the fact is, they have now lost another person, going to the retention question that you asked earlier, and so they have a problem, not in operations to the United States, but in some other operations.

But this is the kind of thing that happens. It is not a static situation, nor do we expect it to be so.

Mr. BORSKI. In conducting your foreign assessments, you ask each country whether it would be interested in entering into a written agreement with the United States that would enable FAA inspectors to do inspections of the aircraft and crews when they are operating in the United States.

What have been the results of that offer? How many countries have agreed to have the FAA do inspections when its aircraft are in the United States?

Mr. BRODERICK. Well, those agreements are the kind of things we seek for the category 2 countries. Category 1 countries obviously don't need it, and it is relatively irrelevant for category 3, and in each case, with the category 2 countries, we have reached agreement with them not only on how we will interact with them today and tomorrow, but on the program that they are going to use to correct the deficiencies that they have got. So basically, the agreements are working quite well.

That is not frankly an issue of large dispute that we have had with them.

Mr. BORSKI. One of the witnesses appearing later today will testify that FAA would benefit by having more inspectors to oversee part 129 operations, but barring that, that it would be useful to train all domestic inspectors to also inspect foreign aircraft. What is your reaction to that proposal?

Mr. BRODERICK. We have I think about 200 inspectors trained to do these foreign assessment aircraft programs. In the perfect world, Mr. Chairman, I would like every one of our inspectors to be trained in every possible specialty, but, as a practical matter, we have found that that is not necessarily the best approach.

In this complex world that we live in, specialization tends to produce a better quality of product from time to time, and I think this is one of those areas where it is complicated enough that we need to have people get special training and do a special—pay special attention to this particular job.

Let me hasten to add though that one of the things that we are doing with the international aviation programs in general is having people throughout the country work on these programs. We think it is very important for people, not only in San Francisco and New York to understand this, but people in Des Moines and Kansas City need to recognize the role they play in the program as well.

Mr. BORSKI. Let me yield at this point to the gentleman from Wisconsin, Mr. Barca, who has been sitting patiently by—the gentleman is recognized.

Mr. BARCA. Thank you, Mr. Chairman. I just have a couple quick questions. In the report given to us by the General Accounting Office, it is stated that as of September 1994, FAA had assessed 30 countries and determined that 17 met international safety standards, 9 did not, 4 received additional ratings.

What is the difference between those that are getting conditional ratings and the nine that did not? Is there a vast difference in terms of the safety? Are the four countries close to being able to meeting the standards.

Mr. BRODERICK. You are exactly right. The four countries that we are working with have relatively minor—let me use a different—relatively small gaps between where they are and what the minimum ICAO standards are.

They might, for example, lack skills in flight operations, which is the most common problem we run into, or their law might not be set up in a way that is appropriate in accordance with the ICAO standards, things that can be changed relatively quickly.

The nine countries that are in the category 3 list are countries that really have not been able to apply any substantial resources to aviation safety oversight, and the gap between where they are and where they would need to be to be compliant with the ICAO safety oversight standards is quite a large one, and not one that we could see filled within the next, oh, six or eight months, and generally speaking, it is because of resource limitations in those countries.

Mr. BARCA. Second, switching to a different topic, have you taken a position on House Resolution 4584 that our colleague, Mr. Oberstar, had introduced, and what would be the implication if that bill were to pass?

Mr. BRODERICK. I am afraid I don't know it by a bill number, sir.

Mr. BARCA. It would give the FAA more authority to control aircraft that had been leased out.

Mr. BORSKI. If the gentleman would yield, I believe it is surplus military aircraft.

Mr. BARCA. Right, that is correct.

Mr. BRODERICK. Okay, I know it by the key words. We have been engaged in a number of discussions about the use of restricted category aircraft. That would significantly go beyond the authorities that we have enacted in our regulations, and I can't give you a detailed position now, but we certainly will, if in fact requested to, provide a formal position from the Department of Transportation to the House on that.

Mr. BARCA. I would appreciate that. Thank you.

Mr. BORSKI. Mr. Broderick and Secretary Tarrant, FAA and the Department of State will soon begin negotiating bilateral safety

agreements with other nations. What potential benefits will accrue from these agreements and what if any impact do you see these agreements having on the foreign assessments program?

Mr. TARRANT. Let me say, first of all, Mr. Chairman, that this is essentially another step to improve and streamline the processes that we apply internationally. As we are all aware, global international ties are becoming increasingly complex and increasingly important to this country.

The BASAs, as we call them, would be government-to-government agreements that would provide a framework, a legal framework for FAA and its foreign counterparts to do certain things in a more effective way than they have been able to do in the past.

Let me just tick them off quickly. It would provide for acceptance of each other's air worthiness approvals, of civil aviation products and parts. It would provide for mutual acceptance of environmental approval of civil aeronautical products. It would, again, provide for approval of maintenance facilities, approval of flight operations, evaluations and qualifications of flight simulators.

The BASA would pull the authorizations and arrangements for approvals, evaluations and qualifications together into a single document, which I don't think we have had in the past. It would have, I think, two basic advantages to it, and I might say, parenthetically by way of explanation, that these are executive agreements and therefore have many of the features of a treaty, but under the oversight of the State Department, the FAA is being delegated authority to do these in a more streamlined way.

The two advantages are that I think it provides for greater reliance by the FAA and its foreign counterparts on the reciprocal acceptance of another's approvals and qualifications. That is going to save both the FAA and the foreign country time and money, and we will be careful to ensure that standards do not slip in any way as part of this new process.

Second, the broader delegation of authority to the FAA to develop these implementation procedures, I would call them, give them greater flexibility to move quickly and more effectively, rather than being bound up in sort of a legal—legal treaty negotiate process. I think we can simply move faster and better under these new processes.

We are in the initial stages. We don't have a track record yet. The first case that we are proposing to negotiate is with Canada. We have made—we have extended an invitation to Canada, for obvious reasons, very compatible systems, close geographic proximity, and Canada is now considering whether it would be willing to enter into the first negotiations to test this process.

Mr. BORSKI. Mr. Broderick, anything in particular?

Mr. BRODERICK. No. We are delighted on the course we have taken in that and look forward to being able to implement them. I think, as Mr. Tarrant said, it really will be a more efficient way to do business. We are delighted to have that opportunity.

Mr. BORSKI. Let me ask each of you, is there any reason to ever withhold any information whatsoever concerning the safety of foreign airlines from U.S. citizens?

Mr. TARRANT. I might begin, Mr. Chairman. As you appreciate, this is an issue of some sensitivity and has a history to it going

back to the very unfortunate Pan Am 103 crash. At that time, I think the State Department in particular became highly sensitive to the fact that it is very important that any information available to the U.S. Government and its employees in particular be made available to the American traveling public.

We have, in the past several years, gone to great length to ensure that there is no double standard in this regard. We have sought to absolutely be as forthcoming as possible. We have established a number of new processes, primarily through the consular information sheets. We now have hot lines. We have information that is available on fax, and on the telephone. We also include in our public announcements and in our phone messages how to reach DOT for more detailed information.

I personally feel that we have made considerable progress in this regard, but I will be very diligent in ensuring that this process continues to be a very open one.

Mr. BRODERICK. There is, Mr. Chairman, an issue about how we get the candid impressions and information from our inspectors in the field relayed up the chain to headquarters or to whatever the decision-making level is in the FAA. This kind of predecisional information has got to be candid and has got to be free flowing if we are to get the real honest views of our inspectors.

On the other hand, when you look at that kind of honesty and the free flow of information that is providing essentially advice to decision-makers in the agency, it is not clear to me that that kind of raw data is either useful to the public or, in fact, should be released. In fact, quite the contrary.

We have seen instances in the past where release of that kind of advisory information that is written by inspectors who never intended it to be released, that kind of release has really a chilling effect on their willingness to be honest and candid because they are frankly embarrassed sometimes by the release of information that they never intended to go public.

So from the viewpoint of raw data of that type, I think that there is often a good rational for not having it publicly released. But in the case of conclusory information that is drawn by us in a program like this where we make a conclusion that based on all the information available, a country is or is not complying with safety standards, I don't see any reason not to release that information as quickly as possible, and in fact, that is the program that we now have.

Mr. TARRANT. I think it is fair to say, Mr. Chairman, that as far as this administration is concerned, there is a very important beginning presumption that we ought to make information public unless there is reason not to make it public.

Mr. BORSKI. Mr. Tarrant, you had mentioned a little earlier, perhaps you could provide this information for me for the record, the 18 cases where a violation of U.S. air rules by foreign aviators have been referred to their own countries for action and seven cases where the investigation had been completed.

Can you tell us what the outcomes of these investigations were? Was appropriate disciplinary action taken against the aviator involved?

Mr. TARRANT. Well, I think we began to get into this a few minutes ago, Mr. Chairman.

Mr. BORSKI. Yes. Perhaps you can point out how this process has worked.

Mr. TARRANT. It might be helpful if I took you through one particular case.

Mr. BORSKI. Sure.

Mr. TARRANT. I said they tend to be cases in which the foreign airmen perhaps don't speak English well, don't understand our regulations, our shorthand that comes from the air traffic controllers, separation spaces, runway movements, not maintaining altitude. And I gave you a rough indication of how some of those cases have been docketed and handled. But let me just deal with one that will take you through the process. It concerns the Philippine Airlines.

In a letter of March 24 this year, the Western Pacific regional office of the FAA informed my Office of Aviation Programs and Policy that the pilot of an airliner had taken his aircraft across the runway at Los Angeles Airport in violations of the controller's instructions.

On March 29, we sent the case to our embassy in Manila with instructions that it convey it to the government for investigation and action. The government informed me in a letter of June 24, I guess that would be some 60 days later, that it had found the pilot had been confused by the controller's instructions and by the markings on the lights on the runway, but nevertheless the government of the Philippines found the pilot at fault and suspended his license for a period of time. I think that would be a fairly typical case of how these things go.

Mr. BORSKI. Can you provide us other information for the record that you have there?

Mr. TARRANT. With regard to the full list of cases that are pending or—

Mr. BORSKI. The ones that you have had completed I think would be helpful for us.

Mr. TARRANT. We would be glad to do that.

Mr. BORSKI. I appreciate that.

[The information follows:]

## VIOLATION OF FAA REGULATIONS RECORD

DOCKET NO.	DATE RECEIVED	DATE OUT TO POST	COUNTRY	RESPONSE
93EA230122	2/4/94	2/24/94	Nigeria	Pending (2nd cable sent)
94W0230016 Pilot violated air traffic control instruction on altitude	2/4/94 3/9/94	Taiwan	Case closed Pilot's license suspended for 30 days	
93WP190065 Belgian AF C-130 violated altitude restrictions in Arizona	3/8/94	Belgium	Case closed Pilot suspended from flying in U.S. for indefinite period	
94WP230042 Philippines airlines pilot violated air traffic control runway (ATC) instructions	3/29/94 3/30/94	Philippines	Case closed Pilot's license suspended for 15 days	
94WP230043 Egypt air Pilot violated air control runway instructions	3/29/94 3/30/94	Egypt	Egyptian investigation underway	
94SO210009 Pilot of Paraguayan registered Cessna deviated from assigned route and failed to maintain contact with ATC	4/19/94 4/19/94	Paraguay	Paraguay reported aircraft not in its flight registry. Closed	
93GL170014 Olympic airways pilot violated ATC altitude instructions	5/16/94	Greece	Pending (2nd cable sent)	
94SO110064 Mexican Pilot violated ATC altitude instructions	6/7/94	Mexico	Pending (2nd cable sent)	

93SU210041 Venezuelan pilot of Dominican flight deviated from cleared flight plan	6/22/94	Venezuela	Case Closed (pilot no longer flying)
94WP230015 China airline Pilot violated ATC runway instructions	7/5/94	Taiwan	Pending (waiting for letter from Taiwan pushed by AIT Taiwan)
94NMO10039 Brazilian registered aircraft violated ATC altitude instructions	7/26/94	Brazil	Pending
94GL310039 Varig aircraft violated ATC runway instructions	7/26/94	Brazil	Pending
94WP170034 Air France aircraft violated ATC altitude instructions	8/5/94	France	Pending
94EA290006 Air Europa pilot allowed more passengers to board then there were seats	8/11/94	Spain	Pending
94SO210023 French pilot violated ATC altitude instructions	8/29/94	France	Pending
F94WP2230055 China Eastern airlines pilot violated ATC runway instructions	8/29/94	China	Pending
94EA230051 Norwegian AF F-5 exceeded air speed limits over urban area	9/14/94	Norway	Pending

Mr. BORSKI. A September 2, Washington Post article quoted a source as saying that the State Department initially had qualms about publicly releasing the results of the foreign assessments. I understand that assertion is not accurate.

Can you tell us if the State Department had any reservations about releasing the results of the individual country assessments, Mr. Secretary?

Mr. TARRANT. I am glad a period of time has passed since that article came out and it gives me a time to calm down so I can respond rationally, Mr. Chairman. To say that I was upset would be an understatement.

We have taken, I think, the lead among the agencies in ensuring that we move as far in the direction of openness as we possibly can. It was my boss, Assistant Secretary Tarulo, who coordinated with the White House and with the General Counsel of the Department of Transportation, personally, to ensure that this was our policy.

It became our policy, and, as I mentioned before, I convened the first interagency meeting to coordinate all of the departments. We are committed to openness, as I said. We begin with the presumption that we will tell unless there is a very, very good reason not to make information public.

As Mr. Broderick suggests, there are cases, for example, in which raw information could, in fact, be misleading. One needs to look at it, have experts take a look at it, not in the sense of keeping it opaque, but making sure that it is information that is truly useful. So there are those cases, but for the record, I appreciate this question because it allows me to make the statement publicly that that is not the position of the State Department.

Mr. BRODERICK. I can also tell you, Mr. Chairman, that, as viewed from outside the State Department, I fully support what Mr. Tarrant says. They have never, during the entire course of development of this whole policy change, hesitated for a minute in supporting what we wanted to do and in urging that we do it quickly.

Mr. BORSKI. There being no further questions, Mr. Tarrant, Mr. Broderick, Mr. Neel, let me thank you very much. Again, this has been a subject of great interest to the subcommittee in the past. We appreciate your cooperation and we look forward to our continued working together.

Thank you kindly.

**TESTIMONY OF EDWARD J. DRISCOLL, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL AIR CARRIER ASSOCIATION, ACCOMPANIED BY RONALD PRIDDY, VICE PRESIDENT, OPERATIONS, NATIONAL AIR CARRIERS ASSOCIATION AND DAVID MULLIGAN, VICE PRESIDENT, MAINTENANCE, SOUTHERN AIR TRANSPORT**

Mr. BORSKI. Our third witness is Mr. Edward J. Driscoll, president and chief executive officer, National Air Carrier Association. Mr. Driscoll is accompanied by Mr. Ronald Priddy, vice president of operations, National Air Carriers Association and Mr. David Mulligan, vice president of maintenance, Southern Air Transport.

Mr. DRISCOLL. Good morning, Mr. Chairman.

Mr. BORSKI. Gentlemen, let me ask you to rise so we can swear you in.

[Witnesses were sworn.]

Mr. BORSKI. Okay, and Mr. Driscoll, let me remind you that your full testimony will be made part of the record and you may proceed in any way in which you feel comfortable.

Mr. DRISCOLL. Thank you, Mr. Chairman. I am pleased at that. I would like to proceed to summarize. We just have one statement, and we are then prepared to answer any questions you may have, and, as you note, we have a representative of Southern Air Transport here, as well as an operations representative from NACA, and we will attempt to be as responsive to you as possible.

We are pleased to have this opportunity to present our views pertaining to the oversight of foreign air carriers. The subject not only has safety implications, but it has economic considerations, because in this international arena we all participate in, it involves a global economy where some carriers are held to a lesser standard than others. Certainly they could have not only an advantage of not having to comply with the high safety standards, but also they would have an economic advantage.

We also believe that the FAA and the U.S. Government should be proud of the status of our Federal Aviation Administration and the manner in which they have implemented the various rules and regulations and their safety oversight functions.

We recognize that the FAA is the premiere of all aviation-related activity throughout the world, that many of the ICAO standards are based upon the FAA standards and, in many respects, the FAA standards are higher than the ICAO standards.

All countries that operate into the United States must adhere to the ICAO standards. Now, those standards can be less than the U.S. standards, and we have a particular example of that in which the Russians, for example, operate the AN-124 into this country. They are under a joint venture arrangement with a British carrier, a wet lease. They operate under recognition that they comply with ICAO, but if a U.S. carrier wanted to operate that AN-124 aircraft within the States, it could not because it doesn't meet FAA standards.

Yet the joint venture is able to operate that aircraft in a cabotage situation between points in the United States, therefore we do have a double standard, and that ought to be checked really as to why a foreign carrier can operate within the United States when a U.S. carrier that would, say, like to lease that airplane and operate it in the United States cannot. This is one example of what a double standard does.

We recognize that there have been tremendous improvements since 1991 in the supervision of the foreign air carriers and in the FAA assessment program, and they can be well pleased with their results that they have achieved.

However, we believe that more improvements can be made. We are the one that suggested that possibly it could be accomplished by cross training of their inspector force so that they would have more inspectors available to inspect the foreign air carriers on at least an equal number of frequencies as they inspect U.S. carriers.

Other than cross training, the other way is probably to increase the inspector force, and we believe that they could easily justify an increase because not only does the inspector force that inspects foreign carriers have to inspect the foreign carriers from ramp inspection, they also have to inspect the foreign repair stations in their area of responsibility and participate in the assessment of the foreign government's ability to supervise their own aviation system within the ICAO standards.

The GAO report of 1993 that has been referred to suggesting that there are U.S. aircraft outside of the country controlled by foreign countries that have not been inspected, I think that is just one example of the aircraft that are not being inspected by the FAA that are outside of their ability to inspect, and these are U.S. registered aircraft bearing an N number, operating in foreign countries, and the U.S. does not have the force to inspect.

These are surplus military aircraft. There was the question raised concerning 4584. This is a bill Mr. Oberstar has introduced to try to get greater control of these surplus military aircraft so that they do not get out of this country with an export license issued by State unless the Administrator of the FAA has looked at the situation and says, no problem in letting them out for a temporary period, however, he must be able to surveil them while they are outside, and determine in advance the status of the operations maintenance program, is up to par. Is there a commercial capability available that could equally cover the function that they are going outside to perform and not permit that aircraft out.

Those ex-military aircraft, the C-130's operating in Africa, and there have been some there that are in pretty bad shape, they are vying with commercial air carriers, such as Southern Air Transport that operates, the commercial version, the L-100, these operators have acquired these airplanes through various systems from surplus sales for a few dollars to having them transferred by the military to the Forest Service and the Department of Agriculture, and then given free to U.S. operators who export these out of the country into Panama, Mexico, and get them into Africa, all to the detriment of commercial air carriers who are licensed to provide commercial service for compensation and hire, who maintain high standards on their aircraft and have the commercial version that they pay \$12 to \$20 million a copy for.

We think this is an area that needs to really be looked at. We believe that the bill that is coming up we understand for hearings early next session, that if that is enacted, it will give the FAA greater authority to control these airplanes.

There is another aspect of the C-130 aircraft. South America has military versions of the C-130 in their air force. Some of these we understand from time to time are diverted into civil use. They operate into Florida.

We cannot ascertain that they are involved in commercial activity, but we think the regulatory force of our government should—check those airplanes when they come in, see if they are engaged in commercial, because if they are, they are in violation of the bilateral agreement between the U.S. and that country.

Mr. Chairman, your staff has asked us to respond to several questions. And that is, whether foreign aircraft operating in the

U.S. receive the appropriate level of surveillance by the U.S. We believe more could be done. We believe they should receive the same level of inspection that U.S. carriers receive.

The other question is whether or not the FAA assessment program actually reflects the capacity of foreign civil aviation authorities to ensure that their carriers meet international standards. We are very pleased with what the U.S. has done as far as their assessment programs, and we do not believe that there will be any retaliation against the U.S. carriers as a result of that activity.

That concludes our prepared statement. We are pleased to answer any questions you may have.

Mr. BORSKI. Okay, Mr. Driscoll.

Thank you very kindly.

Mr. Driscoll, what disadvantages do U.S. carriers have competing with foreign carriers that fly to and from the United States?

Mr. DRISCOLL. I didn't hear your question, sir.

Mr. BORSKI. What disadvantages do U.S. carriers have competing with foreign carriers that fly to and from the United States?

Mr. DRISCOLL. In some instances, the disadvantage between the U.S. and the foreign carriers, the foreign carrier is probably able to operate at lesser cost than the U.S. carrier in some instances.

However, if the foreign carrier is not required to meet the same safety standards as the U.S. carrier is required to meet, and we have had several instances of those, of the safety or the security standards, then the foreign carrier does have an advantage.

There have been cases where the security rules required U.S. carriers in their inspection program, to meet certain standards that the foreign carrier didn't have to meet. That is an additional cost, so therefore that is a disadvantage, an economic disadvantage, and I think there are many cases such as that, Mr. Chairman.

Mr. BORSKI. Have you looked to try to put a number on the financial disadvantage you feel you would have?

Mr. DRISCOLL. We cannot come up with an economic or a figure to represent the economic disadvantage.

Mr. BORSKI. Do you think it is substantial or meaningful or somewhat? You do feel it is a disadvantage for sure.

Mr. DRISCOLL. Yes. I would say that it is a—I don't like to use the word substantial, but it is more than just a token difference.

Mr. BORSKI. Mr. Priddy and Mr. Mulligan, feel free to respond.

Mr. MULLIGAN. I would agree with that.

Mr. PRIDDY. I have nothing to add, sir.

Mr. BORSKI. You mention that U.S. safety standards often are more demanding than international standards. Can you give us some examples?

Mr. PRIDDY. Well, as Mr. Driscoll just pointed out, and we can also, I think, go back to the testimony of the previous two groups, any time there is substantially less inspection, then there is an opportunity, not necessarily taken advantage of, but an opportunity for an air carrier to skimp on those things, and we think that the FAA is getting a good handle on that. But in the case that Mr. Driscoll gave with the airplane that is overseas and really out of the reach of the FAA but registered with an N number, we have numerous examples, provided by private and competent inspection agencies, of engines that are operating beyond the limits of the

manufacturer, a recommendation from the inspection official that the engine be changed, windshield delamination that would indicate that the vision of the pilots possibly was less than might be satisfactory, corrosion far beyond that which would be acceptable if the aircraft were being held to U.S. civil aircraft standards, and those are just a few, sir.

Mr. BORSKI. Do you have information on those? Do you feel confident that information is accurate?

Mr. PRIDDY. Yes. We have a list of items, more than 80 on a particular airplane, in fact, that was provided by a U.S. repair station that inspected a particular N registered airplane overseas and it was appalling, in fact.

Mr. BORSKI. I would suggest, if you would, to submit such documentation that you have to the subcommittee for our records and information.

Mr. PRIDDY. Yes, sir.

Mr. BORSKI. It would be helpful to us.

[The information follows:]

**Question.** What are some specific examples of differences between the requirements of Federal Aviation Regulations on U.S. carriers versus the requirements of ICAO Standards and Recommended Practices or foreign civil aviation regulations that give rise to economic disadvantages for U.S. carriers in international markets?

**NACA Answer.** The ICAO standards and recommended practices as well as the requirements of most foreign civil aviation regulations are generally and uniformly lower than the standards of the FARs. While the differences are too numerous to reiterate, specific examples are lack of compliance with aging aircraft airworthiness directives, major differences in aircraft minimum equipment list requirements, little or no requirement to provide vendor audits, lax or non-existent required inspection programs, no requirement to have wind shear warning equipment installed in aircraft, differences in the numbers of flight attendants required, differences in the levels of aircrew training, including no requirement for crew resource management training, and differences in security and passenger screening requirements.

As the foreign carriers are operating into U.S. airports in direct competition with U.S. carriers, and are in most cases carrying U.S. citizens as passengers, the U.S. should impose the same rigorous safety and security standards on those carriers that the U.S. carrier must meet. Further, the FAA's inspection requirements on foreign carriers should more nearly reflect the standards U.S. carriers are held to. If that requires additional inspectors for the FAA, we would indorse the additional manpower positions. Since there are nearly 400 foreign carriers flying into the U.S., this will have the effect of raising the standards of aviation safety and security worldwide, a tradition the U.S. should be proud to continue.



## Hamilton Aviation

November 24, 1993

Mr. Norman Lightfoot  
AVIATION PLANNING CONSULTANTS  
P. O. Box 221459  
Carmel, CA 93922

Subject: Results of Inspection of C-130A Aircraft N223MA Located at Abidjan, Ivory Coast - 11-16-93 through 11-19-93

Dear Mr. Lightfoot:

Due to the late arrival of your aircraft at Abidjan, a complete and thorough inspection could not be accomplished at this time. During this visit there were no aircraft, engine or prop. logs available for inspection so there was no time spent, or finding made, in regard to aircraft time, cycles, A.D. or S.B. compliance, hard time items such as inspections or time change items.

Assistance was provided to your on-site maintenance rep. to correct several items requested by the flight crew.

The following is a list of items noted during this visit so you can arrange for the proper corrective action:

### Fuselage

1. Fwd center windshield has delamination on approximately 30% of window area.

At this time the window damage may exceed manufacturer's recommended limits. It is not a safety of flight item as long as the flight crew's vision is not effected.

2. Left hand aft upper side window has ply separation.

At this time the window damage may exceed manufacturer's limits. It appears not to be a safety of flight item as far as crew vision is concerned.

3. Aircraft parking brake inoperative.

This should be repaired as this could lead to a ground accident if the crew becomes distracted during engine start. Note: New cable with aircraft not changed because of part shortage.

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4. Hyd. leak nose steering valve.

This item corrected by resealing the valve during our visit.

5. Hyd. leak rudder act.

This item should be repaired as soon as possible. Can be c/w in the field.

6. Hyd. leak ramp act.

7. Corrosion on ramp r/h side below urinal.

Not a safety of flight item at this time. Suggest clean, treat and repair - will take approximately 60 minutes. Also, delete this item and use a honey bucket.

8. Left fwd. brake worn to limits.

This item was changed during this visit.

9. Pressurization inoperative in auto or manual.

This is a flight crew report.

10. Auto-pilot alt. hold erratic.

This is a flight crew report.

11. Auto-pilot must be turned off to execute a right hand turn.

(Same as item 10 above).

12. Both captains and f/o alt. out of tolerance for F.A.R. calibration. It is required every 24 months.

Since aircraft is restricted to day V.F.R. operations only, this should not be a problem. However, it is illegal to operate aircraft until these items are repaired if time has expired.

13. Transponder mode "C" calb checked and cert. paper work in this package.

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14. Anti-skid is inoperative.

Not a problem with current operation due to length of runway. However this could be a problem if aircraft moves to shorter airfield. (Note: anti-skid control box - no help).

15. L/H landing light inoperative.

Not required due to aircraft restrictions.

16. R/H fwd main tire worn past limits.

This item should be repaired as soon as possible. If tire separates, could damage aircraft.

17. R/H gear door act. rod repaired by flight crew.  
This is not an approved repair.

18. R/H aft. normal brake hose - not correct p/n. Should be replaced.

19. Fwd. L/H brake swivel leaking. Can be repaired or replaced.

20. #4 Engine p/l cable tension low. Should be adjusted when time permits.

21. #2 Fuel boost pump inoperative. This item repaired during this visit.

22. #2 Fuel fire wall valve will not close. This item is a flight safety item and should be repaired as soon as possible.

23. #4 dry bay leaking fuel. This item should be worked as soon as possible. This item reported by flight crew - not confirmed at this time due to fuel load.

24. Fuel leak, just outb. #3 engine in wing leading edge. Must remove wing leading edge - approx. 20 M/H, crew of 2 men. This could be an indication of working fasteners or spar web crack. This item reported by flight crew. No fuel leak noted at this time due to fuel load.

25. Fuel leak from top panel #4 fuel tank when full. Needs resealed.

26. All four oil coolers need cleaned.

27. Engine ice detector system no test.

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28. Radome has several soft spots.
29. Most of the rubber hoses on aircraft are deteriorated from age and should be replaced as time permits.
30. LH CWS 20.5 Corrosion on fwd spar around screw leads 4" x 2", 10%.
31. LH CWS 61.6 Corrosion on fwd spar around screw leads approx. 3" x 3", 100%.
32. LH CWS 61.6 Corrosion on rear spar approx. 4" x 1.4", 30%.
33. LH CWS 101.0 Str #5 Surface corrosion - 10% around two screw heads approx. 2" X 1".
34. LH CWS 101.0 Str #8 Intergranular corrosion around screw heads approx. 1# dia., 50%.
35. 108.9 CWS LH Str #11 Surface corrosion around fastener 2" x1".
36. LH CWS 178.8 Fwd spar 5" x 3" 50%. Intergranular corrosion around screw heads.
37. LH CWS 178.8 Str #1 Surface corrosion around screw heads.
38. LH CWS 178.8 str #2 approx. 4" x 2" Intergranular corrosion approx. 75% around screw heads.
39. LH CWS 178.8 Surface corrosion around screw heads inboard of access panel.
40. LH CWS 220 Surface corrosion from fwd spar to rear spar.
41. RH CWS 20.5 fwd spar, intergranular corrosion around screw heads approx. 4" x 3", 25%.
42. RH CWS 20.5 between str #1 & #2 Surface corrosion around screw heads.
43. RH CWS 20.5 str #4 surface corrosion around screw heads.
44. RH CWS 61.6 fwd spar intergranular corrosion approx. 2.5 x 1.4, 20%.
45. RH CWS 61.6 between str #2 & #3 surface corrosion around screw heads.

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46. RH CWS 55.0 str #5 surface corrosion.
47. RH CWS 61.6 between str #9 & #10 surface corrosion around screw heads.
48. RH CWS 61.6 between str #10 & #11 surface corrosion around screw heads.
49. RH CWS 101.0 minor surface corrosion around screw heads between fwd spar & aft spar.
50. RH CWS 108.1 str #9 surface corrosion around fastener heads.
51. RH CWS 140.0 str #9 & aft spar minor surface corrosion.
52. RH CWS 178.8 fwd spar has intergranular corrosion around screw heads approx. 4" x 6", 25%.
53. RH CWS 178.8 rear spar has minor surface corrosion around fasteners.
54. RH Center & outboard wing joint panel missing seven screws.
55. LH FS 1041.5 - 1128.5 fuselage to vertical stab. Attach angle has intergranular corrosion on horizontal leg - condition (bad), 75%.
56. RH FS 1041.5 - 1128.5 fuselage to vertical stab. Attach angle has intergranular corrosion on horizontal leg - condition (bad), 50%.
57. LS CWS 61.6, FS 517 rivet heads missing and loose blind rivets.
58. LH center liferaft door missing small hinged panel.
59. LH Aileron sta 13.0 rivet head missing - signs of possible corrosion.
60. Ramp cargo door at FS 790 LH has intergranular corrosion on floor and cargo side guide.
61. All fuselage windows have dirt accumulated inside.
62. Only one A-20 halan 1211 extinguisher in aircraft, no inspection card, needs recharging.
63. Corrosion inside fuselage around top aft emergency exit.

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64. Horizontal stab. RH sta 51.0 FS 1066.2 sheared rivets, signs of corrosion.
65. Horizontal stab LH sta 51.0 FS 1066.2 sheared rivets, signs of corrosion.
66. RH wing afterbody sta. 84.1 row of rivets loose or sheared.
67. LH inbd flap sta 46.1 approx. 8" crack.
68. Corrosion LH inboard flap well lower panel.
69. All four prop cuff deteriorated from age.
70. Surface corrosion over most of aircraft - internal areas.
71. Engines have surface corrosion.
72. #2 engine's oil tank inb. support strap broken.
73. #1 Engine T.D. amp. missing. Installed new T.D. amp.
74. #1 Prop deice inoperative. Sent new prop. deice brushes with aircraft. Did not have time to change.
75. #1 Engine RGB has small amount of metal flakes on mag. plugs. This was normal amount and of no concern at this time.
76. #1 Engine ign exciter missing - 3 each mount bolts.
77. #1 Engine turbine overheat detector at 3 o'clock cracked.
78. #1 Engine upper inb. cowl door missing, 3 ea. fasteners.
79. #2 Engine has high oil consumption.
80. #2 Engine exciter firing only one plug.
81. #2 Engine t.d. amp. missing. Installed amp from old engine.
82. #3 Engine exciter only firing on one plug.
83. #3 Engine power section oil screen had a high amount of steel flakes. This is above normal amount and is indication of bearing failure.
84. #3 Engine tail pipe cracked in several places. This item was not repaired during this visit. This item, plus the item listed

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above, indicates a possible engine failure at any time and should be watched very closely. Oil screen should be checked at 25 hours of operation. This was discussed with flt. crew and your maintenance rep.

85. #3 T.D. inop. in controlling.
86. #4 Engine D.C. gen. garloc leaking. Replaced seal.
87. #4 Engine has excessive oil consumption and venting when operating. Engine may operate this way for a long time without further deterioration.
88. An approved M.E.L. for this aircraft was not located by flight crew or your rep. An approved M.E.L. should be placed on aircraft and followed.

Enclosed are photos of aircraft and some areas of corrosion. Also, find certs for transponder calibration.

As you are aware a full time licensed A & P mechanic was hired just prior to our visit. This, combined with the new f/o mechanic that arrived as we were leaving, should allow you to bring this aircraft into compliance with F.A.R.'s.

Sincerely,

HAMILTON AVIATION

Michael Dampsey

Mr. BORSKI. Mr. Driscoll, you mentioned FAA's harmonization efforts to upgrade international standards for aircraft certification and maintenance practices. Can you give us any specific examples of areas where we can expect international standards to be upgraded?

Mr. DRISCOLL. I can't, sir, at this point. We can provide those for the record, if you would care to, unless Mr. Mulligan or—

Mr. BORSKI. Sure. Yes, that would be great if you could make suggestions to us in the record, that would be fine.

[The information follows:]

**Question (page 76, line 1770-1774).** Mr. Driscoll, you mentioned FAA's harmonization efforts to upgrade international standards for aircraft certification and maintenance practices. Can you give any specific examples of areas where we can expect international standards to be upgraded?

**Answer.** The FAA and the Joint Aviation Authorities (JAA) of Europe have agreed to undertake a number of aircraft certification and maintenance harmonization efforts. These efforts are principally centered around harmonization of FAR 25, Airworthiness Standards: Transport Category Aircraft; FAR 33, Airworthiness Standards for Aircraft Engines, and FAR 35, Airworthiness Standards: Propellers. There are periodic meetings between the working groups, which include representatives from the FAA, European civil aviation authorities' staff members, and industry experts from the U.S. and European countries. In 1992, the FAA announced at a JAA-FAA Harmonization Conference in Toronto, Canada, that the U.S. position in the FAR/FAR harmonization would be consolidated first in the U.S. Aviation Rulemaking Advisory Committee process.

The following is a list of just some of the subjects under discussion for FAA/JAA harmonization:

- a. Class B cargo compartments
- b. Engine installations
- c. Hydraulic systems and test conditions
- d. Cabin attendant direct view seating
- e. Certification and testing of flight crew seats
- f. Propulsion, including bird ingestion parameters, rain and hail ingestion, engine over speed, engine over temperature, and wind milling.
- g. Aircraft exposure to lightning and other high energy radiated fields.
- h. Equipment, systems and installation design and analysis guidance.
- i. General design loads for transport category airplanes
- j. Damage tolerance and fatigue evaluation standards

The Administrator, Federal Aviation Administration, recently appealed to ICAO to disseminate standards to conduct safety assessments that countries can use to review their own legislation and safety regulations, and also recommended that there be more regional cooperation, as well.<sup>1</sup> There are other harmonization efforts underway between the FAA and other foreign civil aviation authorities. For a more detailed list of those efforts, NACA suggests that the FAA is in the best position to explain those efforts.

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<sup>1</sup>Aviation Daily, Friday, October 21, 1994, p. 114.

Mr. BORSKI. You stated on page 4 of your testimony that surplus military aircraft were being operated in questionable transportation endeavors and without compliance with ICAO standards. Would you elaborate on that statement for us?

Mr. DRISCOLL. Yes. There are numerous C-130 aircraft that have been made available to various operators, either through sales by the military or through the transfer program of the Forest Service whereby they got 27 C-130's, presumably for fighting forest fires, then they transferred those to various carriers, and those aircraft, some are still used for fighting forest fires, but some have been diverted, get into commercial operations, operating for compensation and hire, which is precluded in the transportation of cargo by the FAR, Part 91.

Now, the operations that are going on mainly are in Africa. We did have some in the States. I think the FAA has pretty well curtailed the commercial use of the C-130 in the U.S., other than to be used for fighting forest fires or for crop dusting, et cetera.

But outside of the U.S. and the act to get them outside and operate them continues and, in fact, we understand there are two at present time under consideration for moving to Africa. Now, they have found a ruse under which they can get them outside of the United States and get around, the wet leasing of the airplane. One company dry leases the airplane to another organization and another company provides the crew. That to me is indirect wet leasing and what is precluded directly should not be permitted indirectly. Hopefully, that will be corrected if 4584 is enacted.

This does work to the substantial detriment of Southern Air Transport, who is over in Africa providing, and they have got numerous of their L-100's, the biggest operator of L-100's I guess in the world, they have them over there and all of a sudden comes along a C-130 who says, hey, I can do it cheaper, and he does it cheaper because he has no investment in the airplane, where they have investment and capital costs that have to be recovered. So naturally he can do it for \$1, \$2 a mile cheaper than they can, but this is unfair because that doesn't add anything to air transportation.

I hope I have answered, sir.

Mr. BORSKI. Have you discussed your concerns about the surplus military aircraft being operated commercially overseas with the State Department or the Transportation Department?

Mr. DRISCOLL. We have discussed it with every department, sir. Mr. Oberstar requested that the governments all get together and that the DOT chair a group of government agencies to try to come up and address this problem.

They have had one meeting since the last request was made. I understand the results of that meeting, and there was staff of the Aviation Subcommittee who were at that meeting, were less than satisfactory, with certain agencies saying that they would not agree to the FAA having the final authority to say whether they could or couldn't go out of the United States for a temporary period, that that would impinge upon their authority to grant export licenses, which they are not about ready to share.

Mr. BORSKI. Mr. Driscoll, let me ask you one final question. Are you generally satisfied with the quality of the inspections that FAA does of foreign aircraft when they are in the United States?

Mr. DRISCOLL. I would say yes.

Mr. BORSKI. There being no further questions, gentlemen, thank you very much for your testimony.

**TESTIMONY OF DAVID S. STEMPLER, EXECUTIVE DIRECTOR,  
INTERNATIONAL AIRLINE PASSENGERS ASSOCIATION**

Mr. BORSKI. Our fourth witness is Mr. David Stempler, executive director, International Airline Passengers Association.

Mr. Stempler, let me ask you to please rise and raise your right hand.

[Witness sworn.]

Mr. BORSKI. Thank you, sir. You may be seated and proceed.

Mr. STEMPLER. Mr. Chairman, my name is David Stempler. I am the Executive Director of the International Airline Passengers Association, and I am here to represent the interests and concerns of airline passengers on the safety of foreign airline operations conducted to and from the United States.

You have my full statement, Mr. Chairman, I would just like to summarize my comments, if that is okay.

The subject of these hearings are a very real problem that affects many American citizens. I can't tell you how often I get calls wanting to know whether this foreign carrier or that foreign carrier is safe to fly on. These are calls from business people, leisure travelers, parents or their children who must or choose to travel to certain foreign destinations and oftentimes have choices of airlines.

The most heart rending, Mr. Chairman, are the calls from parents who are sending their children on a flight for a school or a college trip, a band concert or personal travel. I find that colleges, schools, and families are often induced to travel on foreign airlines from countries with low safety standards because the fares on these foreign carriers sometimes are substantially cheaper than on U.S. or internationally recognized as safe airlines.

As Tony Broderick testified earlier, over 40 percent of U.S. citizens that fly overseas do so on foreign carriers, so the safety of foreign airlines is a very important safety issue for U.S. citizens.

We at IAPA are doing our best to alert our members and airline passengers to the dangers of flying in various parts of the world. We have issued safety alerts about Russia, China, Colombia, and India, but we can't do this alone.

We believe that when the FAA has safety information about foreign airlines or countries, they should not withhold it. Now, we understand that the FAA cannot be the aviation police for the world and that they do not have a duty to provide aviation safety information to citizens of other countries. But we do believe that they owe a duty to U.S. citizens wherever they are flying. The FAA's responsibilities to U.S. citizens should not end at our borders.

Now, Mr. Chairman, you have asked me to address several issues in my statement, which I will take in turn. You have asked whether the Federal Aviation Administration has an adequate program to ensure that foreign air carriers meet minimum international aviation safety standards.

The short answer, Mr. Chairman, is that we simply don't know. Since we were not given the actual results of country inspections as a result of our Freedom of Information Act request, which we made for information resulting from the foreign aviation assessment program, we don't know exactly what processes that the FAA went through in assessing each country. We do know what they are generally looking at, as Mr. Broderick described in his testimony, but we don't know how they go about that process and what they have learned as the result of each inspection. We would certainly like that detailed information.

You have also asked what IAPA studies have shown about the adequacy of aviation oversight in various countries. According to our chart, which is attached as exhibit 1 to our statement, countries with more than one fatal accident per million flights are areas of great concern to us.

We think they should also be of concern to the FAA, and you see that we have listed in that exhibit a study for the 10-year period from 1982 to 1992, and we have given you a statement of what are our honor roll airlines, which are our view of the world's safest airlines.

On that list are five U.S. carriers, and then we have them broken down by regions, so you can see as we get past one fatality per million flights, we have several countries, Korea, India, Pakistan, Taiwan, and Thailand, and then the ones we mentioned earlier are China, Russia, and all of the former Soviet Union.

You then asked how the results of our studies differed from the results of the FAA's assessments. The only country that we have issued a safety alert about and which the FAA has made an assessment is Colombia, which you brought up in your questions of Mr. Broderick. The other countries about which we issued warnings, Russia, India, and China, have not been assessed by the FAA and as Tony mentioned, the FAA is currently assessing Russia.

It is important to note that our analyses were done in an entirely different way than the FAA's, and were for entirely different purposes. We are primarily looking at quantifying the risks of an airline passenger being involved in a fatal airline accident, and this is all based on historical data.

The FAA's mission under the Foreign Aviation Safety Assessment program is merely to determine if the country is complying with ICAO standards. Should the FAA's mission be broader? We think it should, and I will present IAPA's recommendations on this subject later in my statement.

With this understanding of the differences of our respective missions, let me explain how our analysis differed from the FAA's assessment of Columbia. To properly place Colombian Airlines among all the airlines on the chart on exhibit 1, we will use Avianca, the principal airline of Colombia, as an example. They had approximately 6.5 accidents per million flights during our 10-year analysis period, excluding one sabotage accident which was eliminated from all airline statistics.

If you included that sabotage accident, it would have driven that number up to 8.9 accidents per million flights. Based on that and other factors, IAPA recommended that our members not fly into, within, or out of Colombia, with the exception of flights into and

out of Bogota by our honor roll airlines. Because of the controversy created in Colombia as a result of our warning, and because our goal is not just to point out problems, but also to be a constructive voice for improvement in aviation safety, IAPA agreed to have an IAPA commission report prepared on the status of aviation safety in Colombia. Captain John R. Olson, our aviation consultant with extensive background and experience in Latin America made an inspection of the situation and prepared the report, Safety in Colombian Skies . . . It Can Be Achieved. A copy of that full report will be submitted for the record with your approval, Mr. Chairman.

Mr. STEMPLER. Some of the deficiencies Captain Olson's report found relate directly to the FAA's safety assessment program and other deficiencies which affect the safety of international flights between the United States and Colombia.

The following items relate to the FAA's safety assessment program. Captain Olson found that some members of Colombia's CAA staff lack aviation or technical experience so their ability to insure compliance with ICAO standards is limited. There are reports of bribery and corruption by Colombian CAA officials. Certificates vouching for aviation personnel competency are issued without verification by the issuing CAA inspectors.

Finally, the Colombian CAA doesn't utilize enforcement procedures and there is no audit of the work of the inspectors. There were also substantial other findings in the reports that may have an impact on international airline operations to, from, and over Colombia that perhaps should be taken into consideration by the FAA in determining the safety of U.S. air carrier operations there.

We had reports of bribery of Colombia air traffic controllers which would allow for "phantom" flying and the fact that these airplanes would operate undetected in that airspace. There is the condition that he found of the lack of enroute navigational aids in Colombia which he found to be alarming. There was a lack of navigational aids because they were routinely destroyed by both narcotic and political forces in that country.

They found that air traffic controller staffing was woefully inadequate and fluency in English, which is the international language of aviation was very poor.

Finally, Mr. Chairman, you asked what recommendations, if any, IAPA would make for additional steps that State, FAA or DOT could take to enhance international aviation safety.

First, we believe that FAA should disclose the findings of their foreign aviation assessments, and the actual deficiencies of those countries, and how they failed to meet ICAO standards. This should also be done for those countries that receive category 1-A and category 2 assessments. We would like to know what the underlying reasons for failure are.

Second, we believe that the FAA should disclose all aviation safety information that they have about foreign countries beyond what they learned in the Foreign Aviation Safety Assessment Program and whether or not the safety information relates to flights to and from the United States.

Now, Mr. Chairman, this would be a significant extension of the FAA's duties and responsibilities to U.S. citizens traveling abroad, but one that we think would be extremely valuable. The underlying

premise is that the FAA may learn of aviation safety hazards in foreign countries from a variety of sources, from airlines, private pilots, the State Department, the Department of Defense and others.

These hazards create risks for U.S. air carriers and U.S. citizens. We believe that to the extent that the FAA has knowledge or can obtain knowledge of these safety deficiencies, such information should be used first in the determination of whether to allow U.S. air carriers to operate or continue to operate in that airspace, and, second, to inform U.S. citizens of the risk on both U.S. and foreign carriers.

Our third recommendation is to have ICAO perform aviation safety inspections around the world, and to provide ICAO with enforcement authority. This has been a concept that has been promoted to IAPA by FAA officials, and one that we would support if we had confidence that these inspections and enforcement would be done fairly and without political influences.

Certainly, ICAO would be the appropriate international body to accomplish this task if it were authorized and funded to do so. Our concerns about this approach are that historically ICAO has been very political and hasn't shown the initiative to create any disputes with a member nation. We have also found that standards of requirements are often reduced to the lowest common denominator.

Our final concern about this ICAO proposal revolves around disclosure. ICAO in the past has not been forthcoming about safety information that would prove embarrassing to any member State. Since IAPA believes that full disclosure of safety information to airline passenger consumers is an important part of this process, lack of disclosure of the inspections and any enforcement actions would be a problem for us. If these issues can be resolved, we would wholeheartedly support this ICAO concept.

Mr. Chairman, thank you for providing IAPA with the opportunity to testify. I hope that my statement was of value to the subcommittee, and I will be happy to answer any questions that you may have.

Mr. BORSKI. Thank you. Thank you, Mr. Stempler.

In addition to the public assessment results that FAA releases, do you believe airline passengers are entitled to other safety information about foreign airlines? For example, should the public be made aware of specific safety deficiencies of foreign airlines?

Mr. STEMPLER. Oh, absolutely, we would wholeheartedly support that. Airline passengers are like any other consumers, and to the extent that consumers have full and complete information, they can make the best decisions. We are not concerned if we embarrass other airlines or if other countries are embarrassed. What we want is the safety of airline passengers, and that should be the primary concern.

Mr. BORSKI. Can you tell us a little bit more about the methodology used in your safety evaluations.

Mr. STEMPLER. On the chart, the exhibit 1, how we came up with the numbers?

Mr. BORSKI. I guess the difference in how you rate foreign airlines as opposed to how the FAA goes about its ratings.

Mr. STEMPLER. I think one thing is that the FAA does not rate foreign airlines. We get calls constantly from people who have been sent to the Department of Transportation or FAA by State or by any other organization, and the FAA and DOT either does not or is not willing to release that information on individual airlines.

We have that information which we provide to our members. Our study and our analysis that we did on the 10-year study is a conglomeration of a lot of factors. We first look at the number of fatal accidents per million flights. Then we look at the number of fatalities per million passengers.

Another key issue for us is the age of the fleet. Our statisticians and our actuaries are also looking at a correlation between the value of the fleet and fatalities and fatal accidents. When we get outside the United States and outside industrialized countries, we are also looking at the aviation infrastructure for that country, how committed they are to safety in terms of instrument landing systems, radar, navigational aids, and so on and so forth, and to the extent that we can find it, we look at pilot training and maintenance training.

Mr. BORSKI. Is it fair to say that your studies looked at different areas than the FAA's assessments?

Mr. STEMPLER. That is right, and we think that the FAA certainly has an awareness of the situation that we have. The data that we are working from is published data, can be obtained, and the FAA should be aware of these hot spots as we are.

Mr. BORSKI. Did you share the results of your Colombian inspection with FAA officials and if so, what was FAA's reaction?

Mr. STEMPLER. It was sent to all the senior officials at FAA. It was sent to the International Department at FAA. It was sent to Tony Broderick. It was sent to Administrator Hinson. It was sent to the NTSB. It was sent to Secretary Pena. We really got no response from it, not that we necessarily expected any, but it received a lot of attention in Colombia, I can assure you of that.

Mr. BORSKI. Do you believe passengers have all the information they need to make safety-related decisions on whether to fly on foreign airlines?

Mr. STEMPLER. Absolutely not. I mean, the lack of information is really extraordinary. It is one of the reasons that we embarked on this process to share with our members what really are the safest airlines and what are the most unsafe areas, and we are continuing to do that.

Mr. BORSKI. Mr. Stempler, the Foreign Safety Assessment Program is designed to bring foreign airlines up to international standards, but those international standards may be substantially below U.S. standards. Can you give us any examples of ways in which international safety standards fall below the standards FAA sets for U.S. airlines?

Mr. STEMPLER. We haven't made an exact study. I think the Airline Pilots Association and some others have done a point-by-point review. It is generally known that these are minimum standards and the minimums under which most countries can comply. This was what we were talking about the lowest common denominator.

You know, it should also be stated that the Federal Aviation regulations are also minimum standards and U.S. carriers far exceed

that, so I don't have a point-by-point comparison, but it is generally known that ICAO standards are baseline standards.

Mr. BORSKI. I have no further questions, Mr. Stempler. Let me thank you very much for your information and your testimony today. It has been very helpful. Thank you, sir. The subcommittee hearing is adjourned.

[Mr. Mineta's prepared statement follows:]

*NORMAN Y. MINETA, CHAIR*

*COMMITTEE ON PUBLIC WORKS*

*AND TRANSPORTATION*

*SUBCOMMITTEE ON INVESTIGATIONS*

*AND OVERSIGHT*

*HEARING ON FOREIGN AIRLINE OVERSIGHT*

*OCTOBER 4, 1994*

Three years ago, this Subcommittee helped to get the FAA's Foreign Airline Oversight Program started, and I am happy to see the Subcommittee reviewing the progress of the program today. I believe that the Foreign Airline Oversight Program has resulted in a significant improvement in international airline safety, and I salute the FAA and the Department of Transportation for the effort they have made in this area and the results they have achieved.

At the same time, we cannot rest on our laurels, and I think this is a good time to review the program to make sure it is achieving everything it can.

So far, we have reviewed 30 countries, and 20 of those had shortcomings of varying degree in their airline safety oversight. As I understand it, a couple of the countries that currently meet safety standards were originally found to have shortcomings and FAA staff worked with these countries to upgrade their oversight.

I am particularly pleased that the Department of Transportation and FAA decided last month to release the results of these assessments. While confidentiality may have had its place when the program first got started, I think it is now time to bring openness to the process so that American travelers can have the same information that the FAA has.

We will hear conflicting testimony today about the safety of some of the countries on the list. It is important that we can be assured about the safety of airlines operating out of these countries, so I hope that these uncertainties can be resolved. In some cases, the situation may have changed since FAA did its initial assessment. I hope that FAA can update its assessments of some of these countries about which there are continuing concerns, so that American travelers can be assured that any airline they fly on from an American city meets international safety standards.

We will also hear concerns about the adequacy of international standards as compared with U.S. safety standards.

I think we need to work aggressively with our international colleagues to upgrade international standards to ensure that, when a country is found to meet international standards, we can be truly assured that its airlines are safe.

We are making excellent progress in this area, and I think this hearing will help to ensure that our progress continues.

[Whereupon, at 11:37 a.m., the subcommittee was adjourned.]

## PREPARED STATEMENTS SUBMITTED BY WITNESSES

STATEMENT OF ANTHONY J. BRODERICK, ASSOCIATE ADMINISTRATOR FOR REGULATION AND CERTIFICATION, FEDERAL AVIATION ADMINISTRATION, BEFORE THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT, ON FAA'S INTERNATIONAL AVIATION ASSESSMENT PROGRAM. OCTOBER 4, 1994.

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before you today to discuss the Federal Aviation Administration's International Aviation Safety Assessment program and the progress we have made since the program's inception in 1991. At the outset, Mr. Chairman, let me express my sincere appreciation to you and the Members of the Subcommittee for your long-standing interest in this program and your support of strengthened international aviation safety practices.

Although our assessment program has received the bulk of the press attention recently, I would like to stress that we are also working on a broader front to disseminate information, train international aviation personnel, and provide technical assistance to promote compliance with international aviation safety standards.

I would like to spend a few minutes bringing you and the Members up to date on our activities in this area, beginning with a short explanation of the assessment program and its goals.

To put our current activity in the area of international aviation safety assessments in perspective, it is helpful to first have a thumbnail sketch of the history of international aviation safety. International aviation safety standards, against which international aircraft and air carrier operations are measured, are established by the International Civil Aviation Organization, (ICAO), which was itself founded in 1944 by a diplomatic

conference in Chicago. What began as an organization of 52 nations has grown to a 183-member body, with virtually every country in the world agreeing to meet, at a minimum, ICAO aviation safety and safety oversight standards.

The ICAO standards are internationally agreed-upon, minimum safety standards for the safe operation of commercial aircraft. They are intended to serve as a basic framework for member States to use when fashioning their own national regulations. Compliance with the ICAO standards provides an acceptable assurance of safety oversight. When a country meets these standards, its carriers are permitted to conduct operations into the United States, in accordance with ICAO provisions and bilateral agreements that deal with commercial operating privileges.

Historically, in the absence of information indicating otherwise, FAA assumed that ICAO member nations were achieving the level of oversight and safety prescribed in the ICAO standards. Operations of international carriers into the U.S. were permitted based on those assumptions. However, as we announced in a hearing before this Subcommittee on June 4, 1991, we determined a closer look into member nations' compliance with ICAO standards was appropriate and necessary. This Subcommittee strongly supported this initiative, and our international aviation assessment program was born.

We began this effort by sending evaluation teams to work cooperatively with foreign governments in determining the adequacy of their regulations governing operation of commercial aircraft. Our goal has been to ensure that international air carriers operating to or from the United States are properly licensed, supervised, and overseen by a competent civil aviation authority that has appropriately trained staff and resources to license and inspect air carriers in accordance with ICAO standards. Specifically, we have looked into the following five general areas:

- Whether a country has legislation enabling the appropriate government office to adopt regulations to meet the minimum requirements of ICAO;
- Whether the country's current regulations in fact meet the ICAO requirements;
- Whether the country has implemented its own regulations;
- Whether the country conducts air carrier certification, routine inspections and surveillance programs; and
- Whether the country has the organization and personnel resources necessary to implement and enforce its adopted safety regulations.

Attached to my statement is an information paper we presented to ICAO last month, which describes the questions we ask in these assessments, and gives the reference to their basis in the ICAO standards.

As part of this process we established a system of categorization within which to place countries, based on the results of our evaluations. Of the 30 countries assessed so far, 17 are classified as Category I countries, meaning they met all of the criteria we set for finding a country in compliance with ICAO standards at the time of our assessment.

Four countries are Category II countries, which means that, while they were not found to be in full compliance with ICAO standards, they are working with the United States to achieve compliance, and we expect that compliance to be fully achieved in a matter of

months. Air carriers flying under the flags of these four countries are permitted to continue operations to or from the United States, subject to heightened inspections by FAA personnel, and conditional upon their maintaining active negotiations with us to implement a process to correct deficiencies. There has been some misunderstanding about the safety of carriers operating from Category II countries into the U.S. I want to stress that, if we had any information indicating safety concerns about these operators, we would not permit them to operate into the U.S. In fact, there are a number of excellent airlines operating from Category II countries, and we will work aggressively with their governments to eliminate the safety oversight shortcomings our team has identified.

Nine countries we assessed do not meet ICAO standards. Carriers which receive their safety oversight are not permitted to conduct operations in the United States. These Category III countries had one or more failings in their basic aviation infrastructure, including: no mechanism for development of adequate civil aviation laws or regulations; lack of technical expertise or resources necessary to license and oversee civil aviation; lack of ability to certify, oversee and enforce air carrier operations or maintenance requirements; or lack of appropriately trained inspector personnel.

Carriers whose countries do not have an acceptable level of oversight from their civil aviation authority (CAA) are not permitted to operate in the United States. Airlines may, however, operate from those countries to the United States if arrangements are made to have those flights conducted by carriers from another country whose civil aviation authority provides internationally acceptable oversight. In this manner, several carriers have found a solution in the establishment of a "wet lease" with a carrier based in a nation where that country's CAA has been found in compliance with the ICAO aviation safety standards. This lease arrangement can allow the carrier to continue operations to and from the United States.

On September 2, we made these findings public, and provided information on resources for United States travelers to turn to when making travel arrangements. Travelers can now call 1-800-FAA-SURE, a toll-free number that is answered by a DOT consumer specialist, or the Department of State's Travel Advisory Service, at 202-647-5225, for information on specific countries.

To date, we have completed assessments on 30 of the 93 countries with flag carriers operating in the United States. We currently have 7 assessments in progress, and one joint aviation system evaluation ongoing in Russia. We will make public the results of those assessments by the end of this year, and our plans are to complete the remaining assessments by the end of 1996. As we have noted, 22 countries that are either full members of the European Joint Aviation Authorities, or are nations with which we have worked very closely over many decades (Canada, Japan, Australia, and New Zealand), are also shortly to be formally added to Category I.

Both Secretary Peña and Administrator Hinson have asked me to express today the gratitude of DOT as a whole and the FAA for the extensive assistance and cooperation of the State Department in our assessment efforts, without which this program simply could not have proven so successful. I can personally add that the assistance we have received from both DOT's Office of the Secretary and the Department of State -- at every level -- has made what could have been an impossible job one that has progressed smoothly and quickly, and one in which we can take great pride.

We will remain constantly alert for any signs or information that would prompt us to reassess a country that has already been found in compliance with ICAO standards. We

will continue to work cooperatively with the State Department and with other governments to keep abreast of all relevant information in this regard.

We will also continue to make available our technical resources for training, workshops, and other assistance to international civil aviation authorities that request our assistance. We have sponsored, for example, a Partnership 21 Seminar for Latin American countries in Oklahoma City; Flight Standards Technical Assistance seminars in Costa Rica, India, and Peru; and seminars for Russian civil aviation officials at our Center for Management Development. We also have plans to participate in an ICAO aviation safety workshop in Delhi, India, next February. We are grateful for the financial assistance of the Agency for International Development in our cooperative activities with Russia, and look forward to continuing and expanding that program in accordance with our evaluation recommendations.

Our recently enacted reauthorization legislation gives us expanded authority to provide safety-related training and operational services to international aviation authorities with or without reimbursement, if providing those services promotes safety. Since about 50% of the passengers on international carriers flying into or out of the United States are U.S. citizens, such assistance clearly has benefits here at home. While we have in the past been able to provide some technical assistance to countries that have received negative assessments, our fiscal limitations pose a barrier to significantly expanded work in this area. We will be exploring options for funding this program, perhaps in a manner similar to the Anti-Terrorism Assistance Program, which is funded with foreign assistance funds earmarked for that purpose by Congress.

We are also continuing our work within ICAO to strengthen the international aviation safety environment. For example, in September 1992, a resolution for increased attention

to aviation safety issues proposed by the United States, with Canadian sponsorship, was adopted by the ICAO Assembly. ICAO, at FAA's urging, has now initiated an Air Navigation Study Group to review and address international safety oversight and ICAO standards compliance issues, with a report to be forwarded by the study group to the ICAO Assembly in 1995. We are actively involved in this effort.

Finally, I would like to note the steps we have taken to improve our inspections of international aircraft operating into and out of the United States. Since 1991, we have specially trained over 200 inspectors to inspect international aircraft, with emphasis on ICAO standards and recommended practices, and operational and maintenance requirements. We have also established special offices in Miami, New York, and San Francisco to respond better to concentrations of international air carrier activity.

In closing, Mr. Chairman, I would like to emphasize the seriousness with which we are working to promote safety in international aviation operations. We will continue to work bilaterally and multilaterally to foster a cooperative international climate within which this goal can best be achieved. But we are also determined to prevent unsafe operations within our own border, and will take such actions as are needed to meet that responsibility. As we continue this important work, we look forward to the continued interest and support of this Subcommittee, along with the willing assistance we have received from the Department of State, ICAO, the Department of Transportation's Office of the Secretary, and our international counterparts.

This completes my prepared statement, Mr. Chairman. I would be pleased to answer any questions you may have.

**RESULTS OF FOREIGN ASSESSMENTS****Category I Countries**

1. Argentina
2. Bahamas
3. Bangladesh
4. Brazil
5. Bulgaria
6. Chile
7. Colombia
8. Costa Rica
9. Guyana
10. Marshall Islands
11. Mexico
12. Organization of Eastern Caribbean States<sup>1</sup>
13. Oman
14. Panama
15. Peru
16. Ukraine
17. Venezuela

**Category II Countries**

1. Bolivia
2. El Salvador
3. Guatemala
4. Netherlands Antilles

**Category III Countries**

1. Belize
2. Dominican Republic
3. Gambia
4. Ghana
5. Honduras
6. Nicaragua
7. Paraguay
8. Uruguay
9. Zaire

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<sup>1</sup> The Organization of Eastern Caribbean States (OECS) includes: Anguilla, Antigua and Barbuda, Dominica, Grenada, Montserrat, St. Lucia, St. Vincent and the Grenadines, St. Kitts and Nevis.

30th CONFERENCE  
DIRECTORS GENERAL OF CIVIL AVIATION  
ASIA AND PACIFIC REGIONS

8-14 SEPTEMBER 1994  
PENANG, MALAYSIA

Attachment 2

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DGCA-94IP/A2/12

- AGENDA ITEM A:      Air Transport Regulatory Policies  
                          in the Asia and Pacific Regions (Theme Topic)
- 2:      Air Transport Regulatory Arrangements

QUESTIONS USED BY THE FAA TO ASSESS COMPLIANCE WITH  
INTERNATIONAL OBLIGATIONS FOR AVIATION SAFETY OVERSIGHT

(Presented by the United States of America)

SUMMARY

This paper provides questions which have been developed by the Federal Aviation Administration for use in assessing compliance of states with safety oversight responsibilities during on-site visits. The ICAO mandatory standards for CAA's, as provided in Annex 6, are also provided. For further references, ICAO's mandatory standards for operators, as contained in Annex 6, are also provided. Finally, questions developed by FAA for use in on-site assessment of foreign carriers' compliance with the standards of ICAO are also provided.

**QUESTIONS FOR ON-SITE VISIT**  
**CIVIL AVIATION AUTHORITY (CAA)**  
(version 3.0)

1. Country.
2. Date.
3. What are the names and positions of the Civil Aviation Authority (CAA) officials with whom meetings were conducted?
4. What is the organizational structure of the Civil Aviation Authority? Include organizational chart, if available.
5. What are the responsibilities and numerical staffing of key departments in the CAA?
6. Are any significant organizational changes planned or anticipated in the next two years?
7. Does the country have laws which establish a requirement for a CAA and aviation regulations? Describe them.
8. Have aviation regulations been promulgated? Describe them.
9. Do the aviation regulations provide for enforcement action against violators of those regulations? How and to what degree?
10. Are the ICAO Annexes (all 18) used as a basis for compliance by this country? How does the CAA insure compliance with the annexes?
11. How many inspectors are employed by the CAA? What are the basic qualifications that an inspector must have?
  - Operations:
  - Airworthiness:
  - Avionics:
12. Does the CAA have a system of handbooks and/or other internal directives which direct inspectors how to implement the national aviation regulations? Describe them.

13. What does the CAA do when an air carrier proposes to operate an aircraft type for which the CAA possesses no inspector expertise?
14. Has the CAA conducted any recent inspection of its air carriers who operate internationally? If yes, what type of inspections were conducted and what were the results?
15. Would this country be interested in entering into a written agreement with the U.S. which would enable U.S. FAA inspectors to conduct surveillance of aircraft and air crews on behalf of the host country, when the aircraft and crews are operating in the U.S.? What areas would the surveillance include?
  - Aircraft:
  - Air Crews:
  - Airworthiness:

#### CERTIFICATION OF AIRMEN

16. What kinds of certificates are issued by the CAA to airmen, and what are the qualifications for those certificates?
  - Operations:
  - Airworthiness:
  - Avionics:
  - Medical:
17. How many pilots and mechanics are certificated by this country?
18. Do inspectors of this country conduct inspections of pilots who hold U.S. certificates and operate aircraft for an airline certificated by this country? Where, how often, and to what degree?
19. Does the CAA designate pilot and/or mechanic examiners? By what process?

#### AIR CARRIER CERTIFICATION

20. Are there differences in which Part 129 Air Carriers operate from this country according to (a) DOT records, (b) FAA records, and (c) CAA records?

21. Which aircraft (by type and registration number) have you approved for each air carrier to operate? Are wet or dry leased aircraft used, if so which ones?
22. Does the CAA conduct inspections of wet or dry leased aircraft?
23. Who has operational control of any wet leased aircraft?
24. Does the CAA specifically approve the routes which air carriers are authorized to use?
25. What kinds of Air Operator Certificates are issued by the CAA to air carriers, and what are the qualifications for those certificates? Is the qualification for a certificate issued to an international air carrier any different than that issued to a domestic airline?
26. Has an Air Operator Certificate been issued to all air carriers who operate internationally?
27. What review process is used by the CAA to determine an applicant's fitness to hold an airline certificate prior to allowing the applicant to operate? Is the process any different for an air carrier who will operate internationally?
28. Once a certificate is issued to an air carrier, how many follow up inspections are conducted to insure continuing compliance and fitness?
29. For each of its international air carriers, has this government reviewed and approved (in accordance with ICAO Annex 6):
  - A flight crew member training program (9.3.1).
  - A pilot proficiency check program (9.4.4).
  - A maintenance manual (8.2).
  - An operations manual (4.2.2.1).
  - Flight and duty time limitations (4.2.10.3).
  - A Minimum Equipment List (MEL) for each type aircraft operated (6.1.2).
  - An FAA-approved maintenance program for each U.S.-registered aircraft (FAR 129.14).
30. Are copies of the above documents and/or approvals available for review at the CAA? What does a spot check reveal?

31. Does the CAA designate Company check airman or equivalent? By what process?

CERTIFICATION OF AIRCRAFT

32. How are airworthiness certificates issued to aircraft? How are they renewed? Is there a different process applied if the aircraft is registered in another state?
33. How many aircraft are registered in this country? What types are included?  
- Air Carrier Types:  
- General Aviation Types:
34. Do inspectors of this country conduct inspections of N-registered aircraft, operated privately or commercially? Where, how often, and to what degree?
35. Questions on matters unique to this country or it's Part 129 air carriers.

**ICAO MANDATORY STANDARDS FOR CAAS**  
**ANNEX 6**

**Chapter 4. FLIGHT OPERATIONS**

- 4.2.1.1 The required air operator certificate or equivalent document, must be issued by the State of the Operator.
- 4.2.1.3 The document provided Fr in 4.2.1.1 is only issued by the State of the Operator after the operator has demonstrated an adequate organization, method of control and supervision of flight control, training program and maintenance arrangements.
- 4.2.1.4 The continued validity of the document provided for in 4.2.1.1 shall depend upon the operator maintaining the requirements of 4.2.1.3 under the supervision of the State of the Operator.
- 4.2.1.5 The air operator certificate/document shall contain the following:
  - a) operator's identification (name, location)
  - b) date of issue and period of validity
  - c) types of operations authorized
  - d) types of aircraft authorized
  - e) authorized routes/areas of operation
- 4.2.2.2 The State of the Operator shall be provided a copy of the operator's operations manual together with the appropriate revisions/amendments.
- 4.2.7.1 The State of the Operator shall require the operator to establish aerodrome operating minima for each aerodrome to be used, and shall approve the method of determination of such minima.
- 4.2.7.2 The State of the Operator shall require of the operator in establishing aerodrome operating minima for each aerodrome to be used, that full account is taken of:
  - a) aircraft type, performance and handling characteristics
  - b) composition of flight crew, their competence and experience
  - c) dimensions and characteristics of the runways
  - d) adequacy and performance of visual and non-visual ground aids
  - e) navigation equipment available to control approach to landing and missed approach

- f) obstacles in the approach and missed approach areas and obstacle clearance altitude/height for the instrument approach procedure
- g) means used to determine and report meteorological conditions
- h) obstacles in the climb-out areas and necessary clearance margins.

4.2.10.3 The flight and duty time rules formulated by the operator shall be approved by the State of the Operator.

4.7.1 Extended range operations of 2-Engine turbine powered aircraft is approved by the State of the Operator.

4.7.2 In approving an ETOPS operation the State of the Operator shall ensure that:

- a) the airworthiness certification of the aircraft type,
- b) the propulsion system reliability, and
- c) the operator's maintenance procedures, operating practices, flight dispatch procedures, and crew training programs, provide the overall level of safety intended by the provisions of Annex 6 & 8.

In making the above assessment, account shall be taken of the route to be flown, anticipated operating conditions, and the location of adequate en-route alternates.

## Chapter 5. AEROPLANE PERFORMANCE OPERATING LIMITATIONS

5.1.1 Aircraft shall be operated IAW performance established by the State of the Registry.

5.2.4 The State of the Registry shall take reasonable precautions to ensure the general level of safety is maintained.

5.2.6 In applying the Standards for performance and limitations significant factors must be taken into account, such as mass, elevation, pressure-altitude, temperature, wind, runway gradient/condition, etc.

## Chapter 6. AEROPLANE INSTRUMENTS, EQUIPMENT, & FLIGHT DOCUMENTS

- 6.1.2 The operator must submit it's Minimum Equipment List to the State of the Operator for approval.
- 6.2.2 The State of the Operator will determine the age requirement for which a person must be provided a seat or berth on the aircraft.

## Chapter 7. AEROPLANE COMMUNICATION & NAVIGATION EQUIPMENT

- 7.2.2 An operator is authorized by the State of the Operator for MNPS operations.

## Chapter 9. AEROPLANE FLIGHT CREW

- 9.1.4 As determined by the State of the Operator a flight navigator may be deemed necessary if the flight cannot be adequately accomplished by the pilots, from the pilot's station.
- 9.3.1 The State of the Operator shall approve an operator's ground and flight training programs.

The State of the Operator shall determine the required ground and flight training facilities and properly qualified instructors to be provided by the operator.

The State of the Operator shall determine the recurrent basis for flight crew member currency training.
- 9.3.2 The extent that a synthetic trainer may be utilized for recurrent flight training is determined by the State of the Operator.
- 9.4.3.3 The State of the Operator will approve the margin to be added to a PIC's instrument approach minima when he has not previously qualified for a particular aerodrome.
- 9.4.4 Pilot proficiency shall be demonstrated to either a check pilot of the operator or representative of the State of the Operator.

**Chapter 12. CABIN ATTENDANTS**

- 12.1 An operator will establish the minimum number of flight attendants required for each type aircraft to the satisfaction of the State of the Operator.
- 12.4 An operator shall establish and maintain a training program for cabin attendants, approved by the State of the Operator.

**ICAO MANDATORY STANDARDS FOR OPERATORS**  
**Annex 6**

**Chapter 3. GENERAL**

- 3.1 An operator shall ensure that all employees know they must comply with the laws, regulations, and procedures of the State where operations are conducted.
- 3.2 An operator shall ensure that all pilots are familiar with a States laws, regulations, and procedures relative to their duties for areas to be traversed and aerodromes/air navigation facilities, to be used.

The operator shall ensure that other flight crew members are familiar with such of these laws, regulations, and procedures as are pertinent to their respective duties.
- 3.3 An operator or Designated representative shall have responsibility for operational control.
- 3.5 Operators shall ensure that PICs have essential search and rescue information on board the aircraft.
- 3.6 An operator shall establish and maintain an accident prevention and flight safety program.

**Chapter 4. FLIGHT OPERATIONS**

- 4.1.1 An operator shall ensure that a flight will not be commenced unless it has been ascertained by every reasonable means available, that required ground and flight facilities are adequate for the operation.
- 4.1.2 An operator shall ensure that observed inadequate facilities are reported to the responsible authority.
- 4.2.1.1 An operator shall not engage in commercial air transport unless it possesses a valid operating certificate issued by the State of the operator.

- 4.2.1.3 The issuance of the operating certificate shall be dependent upon the operator demonstrating an adequate organization, method of control and supervision of flight operations, training programs, and maintenance arrangements.
- 4.2.1.4 Continued validity of an operating certificate shall depend upon the operator maintaining the requirements of 4.2.1.3 above.
- 4.2.2.1 An operator shall provide an operations manual IAW 11.1, maintaining adequate revisions, for the use of concerned operations personnel.  
..
- 4.2.2.2 An operator shall provide a copy of the manual in 4.2.2.1 above, to the State of the Operator including any added material the State may feel necessary.
- 4.2.3.1 An operator shall ensure all operations personnel are properly instructed in their particular duties and responsibilities.
- 4.2.3.2 An aircraft shall not be taxied unless the individual has been authorized by the operator after receiving instruction with respect to the aerodrome specifics, has been qualified to use the radio telephone, and has been found competent to taxi the aircraft.
- 4.2.4 An operator shall ensure that inflight emergency simulations, affecting aircraft flight characteristics, are not practiced while carrying passengers.
- 4.2.6.3 An operator shall specify in the operations manual the method by which minimum flight altitudes are determined over routes where they have not been established.
- 4.2.8 An operator shall establish operational procedures to ensure safe margins for threshold crossing height during the conduct of precision approaches.
- 4.2.9.1 An operator shall maintain fuel and oil records to ascertain compliance with the requirements of 4.3.6.
- 4.2.9.2 The operator shall maintain the above mentioned oil and fuel records for a period of three months.

- 4.2.10.1 The operator shall designate the Pilot In Command for each flight.
- 4.2.10.2 An operator shall maintain current flight time records for all flight crew members.
- 4.2.10.3 An operator shall formulate rules limiting flight time and duty periods of flight crew members.

These rules shall also make provision for adequate rest periods and shall be such as to ensure that fatigue does not endanger flight safety.

The operator shall include these rules in the operations manual and shall have them approved by the State of the Operator.
- 4.2.10.4 The operator shall maintain records such that the total cosmic radiation, for flights over 15,000 m (49,000 ft), can be determined for each crew member during any 12 consecutive months.
- 4.2.11.1 An operator shall ensure that passengers are made familiar with the location and use of seat belts, emergency exits, life jackets (if prescribed), oxygen dispensing equipment (if prescribed), and other individual emergency equipment.
- 4.2.11.2 The operator shall inform the passengers of the location and general manner of use of the principal emergency equipment carried for collective use.
- 4.2.11.4 The operator shall ensure during take-off and landing, inflight emergencies, and turbulence, all passengers are secured in their seats utilizing the seat belts or harnesses provided.
- 4.3.2 The operator shall keep the completed flight preparation forms (airworthiness certification, maintenance release, weight and balance, flight planning documents, etc.) for a period of three months.
- 4.3.3.1 A copy of the completed operational flight plan shall be filed with the operator/designated agent if possible; otherwise it may be left with the aerodrome authority.

- 4.3.7.1 An airplane shall not be refueled while passengers are embarking/disembarking or on board unless properly manned by qualified personnel able to initiate and direct an expeditious aircraft evacuation.
- 4.8 The operator shall ensure that carry on baggage is adequately and securely stowed.

## Chapter 6. AIRPLANE INSTRUMENTS, EQUIPMENT & FLIGHT DOCUMENTS

- 6.1.2 The operator shall include in the operations manual, a minimum equipment list approved by the State of the Operator.
- 6.1.3 The operator shall provide the operations staff and flight crew with an aircraft operating manual for each aircraft type.

The manuals will contain the normal, abnormal, and emergency procedures relating to aircraft operation.

The manual shall include details of aircraft systems and checklists to be used.

## Chapter 8. AIRPLANE MAINTENANCE

- 8.1.1 An operator shall ensure there is provided an organization, including trained staff, workshops, and other equipment and facilities for maintaining all airplanes in an airworthy condition.
- 8.2.1 An operator shall ensure a maintenance manual is provided for the use and guidance of maintenance personnel and organizations.
- 8.2.2 An operator shall ensure the maintenance manual is amended or revised as necessary to keep the information current.
- 8.2.3 Revisions/amendments to the maintenance manual shall be furnished promptly to appropriate personnel.

- 8.3 The operator shall ensure all maintenance personnel are instructed regarding the maintenance methods to be employed when new equipment is introduced into service.
- 8.4 An operator shall ensure there is provided an inspection system to ensure all maintenance, overhaul, modifications and repairs affecting airworthiness, are affected as prescribed in the MX manual.
- 8.8.1 An operator shall ensure the following records are kept:
- a) with respect to the airplane: total time in service;
  - b) with respect to major components:
    - (1) total time in service;
    - (2) date of last overhaul;
    - (3) date of last inspection;
  - c) with respect to instruments and equipment (serviceability determined by time in service):
    - (1) time in service records or some record to compute operating life;
    - (2) date of last inspection.
- 8.8.1.1 The above records required by 8.8.1 shall be kept for a period of 90 days after the end of the operating life of the unit.

## Chapter 9. AIRPLANE FLIGHT CREW

- 9.2 An operator shall, for each type aircraft, assign to all flight crew members the necessary functions they are to perform in an emergency situation or evacuation.
- Annual training in accomplishing the above functions shall be contained in the operator's training program to include instruction, in the use of all emergency equipment required to be carried on the aircraft, and emergency evacuation drills.
- 9.3.1 An operator shall establish and maintain a ground and flight training program, approved by the State of the Operator.

The training program shall consist of ground and flight training in the type of aircraft the flight crew serves and shall include crew coordination and training in all systems, abnormalities and emergencies.

In addition the training program will include the transport of dangerous goods.

The training program will be given on a recurrent basis and shall include an examination.

9.4.1 An operator shall not assign a pilot to act as PIC unless within the preceding 90 days, that pilot has made three take-offs and landings in that type aircraft.

9.4.2 An operator shall not assign a co-pilot to serve at the flight controls unless within the preceding 90 days that co-pilot has served as PIC or co-pilot at the controls, or has otherwise demonstrated competence.

9.4.3.1 An operator shall not utilize a pilot as PIC of an aircraft on a route or route segment for which that pilot is not currently qualified IAW 9.4.3.2 & 9.4.3.3.

9.4.3.4 The operator shall maintain a record sufficient to satisfy the State of the Operator as to the pilot's qualification.

9.4.3.5 An operator shall not continue to utilize a pilot as a PIC on a route unless in the preceding 12 months the pilot has made at least one trip between the terminal points of that route as a pilot member of the crew, as a check pilot, or as an observer on the flight deck.

9.4.4 An operator shall ensure that piloting techniques and the ability to execute emergency procedures are checked in such a way as to demonstrate the pilot's competence.

Where the operation may be conducted under IFR, an operator shall ensure the pilot's competence is demonstrated to either a check pilot of the operator or a representative of the State of the Operator.

Above such checks shall be performed twice within any period of one year and should not occur within a period of four consecutive months.

### Chapter 12. FLIGHT ATTENDANTS

- 12.1 An operator shall establish, to the satisfaction of the State of the Operator, the minimum number of cabin attendants required for each type aircraft.
- The operator shall assign the necessary functions to be performed, in an emergency, for each type aircraft.
- 12.4 An operator shall establish and maintain a training program approved by the State of the Operator, to be completed annually by each cabin attendant who is assigned emergency functions under 12.1.

### Chapter 13. SECURITY

- 13.1 An operator shall ensure there is a checklist on board the aircraft to be followed in searching for a bomb in case of suspected sabotage.
- The above checklists shall be supported by guidance on action to be taken should a bomb or suspicious object be found.
- 13.3.1 An operator shall establish and maintain a training program for enabling crew members to act in the most appropriate manner with regard to unlawful interference.
- 13.3.2 An operator shall establish and maintain a sabotage, bomb threat, unlawful interference, training program for other appropriate employees.

QUESTIONS FOR ON-SITE SURVEY  
PART 129 AIR CARRIER

(version 3.0)

SUBJECT AIR CARRIER:

COUNTRY OF CERTIFICATION:

1. What are the names and positions of the company officials with whom meetings were conducted?
2. Where is the company's corporate headquarters located?
3. At what other locations does the air carrier maintain facilities? What type facilities are they?
4. What types of aircraft are operated by this air carrier? How many of each type? What is their registration? Do the carriers current FAA Ops Specs reflect this same information?

Type	No. of A/C	Regis. No.	Leased? *	Wet/Dry	Type	No. of A/C	Regis. No.	Leased? *	Wet/Dry
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5. What cities and routes does this carrier currently service? Does this match the authority contained in the FAA Ops Specs and DOT economic authority? (FAR 129.11)
6. How many employees does this company have? At what locations? In what specialty? How many possess U.S. certificates?

Specialty	Location	No. of Employees	No. with U.S. Certs.
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7. Does this air carrier lease, rent, borrow, or otherwise utilize employees who are provided by any other company? If so, what type of employees? How are these employees trained in the company's procedures?
8. Has the state designated check airmen or equivalent? How many?
9. Where does the company conduct it's pilot training? If simulators are used, which ones?

10. Is there a maximum age for PICS or Co-pilots, if so what?
11. Are the approved training program, maintenance manual, operations manual, and MEL available for review? Are the host country's approvals of each of these items available for review?
12. Does this air carrier presently operate in accordance with any wet leases? Any dry leases? Any other charter-like agreements?
13. How is maintenance performed on company aircraft? By whom? Where? How much hangar space is available for performing aircraft maintenance? (Annex 6, 11.3)
14. Who performs maintenance on aircraft in the United States?
15. What type of record keeping systems are utilized by this air carrier to track flight and duty time? (Annex 6, 4.2.10.3)
16. Who will exercise operational control of the flight operations of this airline? How? From what location? (Annex 6, 3.3)

STATEMENT OF

EDWARD J. DRISCOLL  
PRESIDENT AND CHIEF EXECUTIVE OFFICER  
NATIONAL AIR CARRIER ASSOCIATION

BEFORE THE  
SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT  
OF THE  
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION  
OF THE  
UNITED STATES HOUSE OF REPRESENTATIVES

STATEMENT ON  
FEDERAL AVIATION ADMINISTRATION OVERSIGHT  
OF FOREIGN AIRLINE OPERATIONS

October 4, 1994

NATIONAL AIR CARRIER ASSOCIATION  
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Mr. Chairman and members of the Committee. NACA and its member carriers are pleased to have this opportunity to set forth their views pertaining to FAA's oversight of foreign air carriers. The subject not only has safety implications, but in many respects is an economic issue. U.S. carriers are engaged in international competition in a global economy. When some carriers are held to a lower standard than others, not only is there a problem of assuring the safety of U.S. travelers and their commerce abroad, those carriers may gain an unfair economic advantage in that they are not subjected to proper oversight by competent aviation authority.

We believe the U.S. can be justifiably proud of the fact that the Federal Aviation Administration is the premier civil aviation authority in the world, and that U.S. Federal Aviation Regulations (FARs) have historically set the standards for safety internationally. In many cases the FARs were adopted as the international standards in the annexes to the Convention on International Civil Aviation. Where the FARs were not adopted, they generally require a higher standard of safety than the ICAO standards and recommended practices.

As the Committee recognizes, each signatory to ICAO's standards and recommended practices has a responsibility for assuring that the safety and operating practices of the operators and the aircraft certificated or registered in its territories meet, as a minimum, the ICAO standards and recommended practices. Additionally,

where the aircraft are operated into U.S. territories or where the aircraft are registered as U.S. civil aircraft, the Federal Aviation Administration (FAA) has a responsibility to assure that minimum standards are being met.

We recognize that there have been many improvements in FAA's surveillance of foreign carries since hearings were last held in 1991. The FAA has managed its resources and revised its structure such that more senior officials and more of the inspector work force have been dedicated to assuring foreign air carrier compliance with safe standards and recommended practices. There are a number of harmonization efforts in progress with foreign civil aviation officials, particularly in the area of aircraft certification and maintenance practices, which we believe will improve safety of foreign carriers and improve the economics of U.S. aviation operations worldwide. Finally, we applaud the FAA's foreign civil aviation assessment program which has recently found that a number of countries do not have adequate programs to assure the safety and oversight of their carriers, resulting in the carriers from those countries being suspended from operating into the U.S.

However, NACA and its member carriers believe further improvements can be made. There may be other foreign carriers that are not held to the ICAO standards by their national authorities, and the FAA has not always had the resources to assure the standards are met

when the carriers are flying in the U.S. In particular, we believe U.S. carriers are subjected to far more safety inspections than our foreign competitors operating into the U.S.

We realize the FAA has a limited number of safety inspectors and may need more. However, if that is not possible, and to increase the ability to inspect foreign carriers with existing resources, we recommend that the FAA train the majority of their safety inspectors to inspect both foreign and U.S. carriers for operations and maintenance compliance. As was noted above, many of the ICAO standards and recommended practices are similar to the FARs, and because most of the aircraft being operated into the U.S. by foreign carriers are familiar to the FAA, the differences in training should not be too great.

There is another area we believe could be improved. In June 1993, the General Accounting Office (GAO) published a report concerning the FAA's record in overseeing U.S. registered aircraft.<sup>1</sup> In that report, the GAO found that there were literally hundreds of civil aircraft registered in the U.S. to foreign owners or operators that were not being surveilled by the FAA. We would hasten to add that the phenomenon is not limited to civil aircraft with foreign ownership.

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<sup>1</sup>"Unresolved Issues Involving U.S.-Registered Aircraft," GAO/RCED-93-135, June 1993.

For the past five years or more, surplus U.S. military aircraft registered in the U.S. as civil aircraft have been operated without proper maintenance programs. On several occasions, the U.S. Department of State, with FAA coordination, have permitted these aircraft to be exported to foreign countries, where they are being operated in questionable transportation endeavors and without complying with the minimum ICAO standards and recommended maintenance practices. Once these aircraft leave the United States, there is little, if any, FAA surveillance. The owners of the aircraft have been required by the State Department to retain their U.S. aircraft registration, which gives the nations they operate within the false sense that the aircraft meet the normally high safety standards required by the FAA.

While the FAA, in the recent past, has attempted to remedy the problem by prescribing the military technical order maintenance and inspection requirements as the minimum acceptable program for the aircraft, we have received several reports that those aircraft operating outside of the U.S. do not meet minimum maintenance standards. As a result, legislation has been introduced under H.R. 4584 to give the Administrator, Federal Aviation Administration, additional authority to control these aircraft.

We would encourage the FAA to take a more aggressive role in requiring the owners and operators of U.S. registered aircraft, regardless of nationality, to bring the aircraft up to the

standards of maintenance normally associated with the U.S. registry.

We have additional concerns that C-130 military aircraft that have been transferred under military sales agreements to foreign militaries are being operated in commercial transportation, which is in violation of the end-user agreements between the U.S. and those foreign governments. We have frequent reports of those aircraft landing at U.S. civilian fields and loading cargo at commercial cargo ramps. We believe more could be done to assure the aircraft are not in violation of their end-user agreements, i.e., are not operating for compensation or hire.

Mr. Chairman, your staff provided us with several questions that you wished us to answer in our statement for the record. The first dealt with whether foreign aircraft operating in the U.S. receive the appropriate level of surveillance by the FAA. As we have noted, we believe more should be done.

Another question you requested we address is whether FAA's assessments accurately reflect the capacity of foreign civil aviation authorities to ensure that their carriers meet international standards. We believe the FAA is well on the way to achieving that goal. Furthermore, we do not believe there will be any retaliation against U.S. carriers as a result of FAA's actions in that program.

Mr. Chairman, that concludes my prepared remarks. We are aware that there may be other questions the Committee may wish to ask of us, and we are ready to do so now.

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**GAO****United States General Accounting Office****Testimony**

Before the Subcommittee on Investigations and Oversight,  
Committee on Public Works and Transportation,  
House of Representatives

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For Release on Delivery  
Expected at  
9:30 a.m. EDT  
Tuesday  
October 4, 1994

**AVIATION SAFETY****FAA's Efforts to Improve  
Oversight of Foreign Carriers**

Statement by Allen Li, Associate Director,  
Transportation Issues,  
Resources, Community, and Economic  
Development Division



Mr. Chairman and Members of the Subcommittee:

We welcome the opportunity to testify on the Federal Aviation Administration's (FAA) efforts to improve its oversight of foreign countries' civil aviation safety programs, as well as their individual carriers that fly into the United States. As air travel becomes more global, the importance of this issue increases: More than 300 foreign carriers from over 90 countries are currently licensed to fly into and out of the United States. Responsibility for safety oversight is shared among several parties. Under an international agreement administered by the International Civil Aviation Organization (ICAO), overseeing the safety of air carriers is primarily the responsibility of the country in which the aircraft are registered.<sup>1</sup> Consistent with this agreement, FAA relies on the foreign country in which the aircraft are registered to make in-depth inspections of their carriers that fly into the United States. However, if FAA has evidence that a foreign-registered carrier operating in the United States is not meeting international safety standards, it can perform a more comprehensive inspection of the carrier, and works with foreign authorities to correct identified problems.

As early as 1991, this Subcommittee expressed concerns about the ability of some foreign governments to provide adequate oversight of their carriers flying into the United States. The Subcommittee subsequently asked us to review FAA's (1) efforts to assess the oversight capabilities of foreign countries, as well as FAA's inspections of individual foreign carriers that enter the United States; (2) efforts to ensure that enforcement actions are

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<sup>1</sup>In 1944, representatives of 52 countries, including the United States, met in Chicago to create a framework for international cooperation in developing civil aviation. These representatives created the International Civil Aviation Organization (ICAO), which developed safety standards that member countries must meet. Currently, ICAO has about 180 member countries.

taken to correct serious safety violations; and (3) oversight of U.S.-registered, foreign-operated aircraft that subsequently could operate in the United States. We have issued three reports on these related issues.<sup>2</sup> Our testimony today is based on these reports.

In summary, although FAA has taken a number of steps to improve its oversight of foreign countries' civil aviation safety programs and their individual carriers, we believe it could do more. The agency has completed assessments of the oversight capabilities of the civil aviation authorities of 30 foreign governments, and the Department of Transportation (DOT) has publicly announced the results of these assessments. Furthermore, FAA is working with foreign aviation authorities to improve their safety oversight programs and is increasing the frequency of its inspections of those carriers with identified safety deficiencies. In addition, FAA and the State Department have developed improved procedures for tracking enforcement cases referred to foreign governments for action. These are steps in the right direction and largely address the thrust of our prior recommendations. However, we believe that FAA can further refine its oversight efforts by implementing other recommendations we have made. These include (1) performing more comprehensive inspections of foreign carriers that have safety problems; (2) inspecting U.S.-registered, foreign-operated aircraft before they return to service in this country, particularly if they are from countries that do not meet international safety standards; and (3) following up to determine whether action has been taken to correct identified safety deficiencies.

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<sup>2</sup>Aviation Safety: FAA and the State Department Can Better Manage Foreign Enforcement Cases (GAO/RCED-94-87, Mar. 17, 1994), Aviation Safety: Unresolved Issues Involving U.S.-Registered Aircraft (GAO/RCED-93-135, June 18, 1993), and Aviation Safety: Increased Oversight of Foreign Carriers Needed (GAO/RCED-93-42, Nov. 20, 1992).

FAA'S OVERSIGHT OF FOREIGN CIVIL AVIATION  
SAFETY PROGRAMS AND CARRIERS

In June 1991, FAA announced a new program to examine whether foreign civil aviation authorities are meeting their responsibilities to ensure that their carriers comply with international safety standards. FAA started this program because it was concerned that some countries were not adequately ensuring that their carriers flying into the United States met minimum ICAO standards.

As of September 1994, FAA had assessed 30 countries and determined that 17 met international safety standards, 9 did not, and 4 received conditional ratings. None of the air carriers from the nine noncomplying countries are allowed to fly into the United States. However, FAA is allowing airlines from these countries to make alternative arrangements for transporting passengers and cargo by using leased aircraft and crews from countries that the agency has found to have adequate oversight. The four countries given conditional ratings did not comply with safety standards in certain areas. Carriers from the countries that received conditional ratings can fly into this country under heightened FAA inspection. Furthermore, FAA is working with the civil aviation authorities in these four countries to implement corrective measures.

In countries that did not meet the standards, FAA found such deficiencies as the following: no operations or airworthiness inspectors; no aviation regulations, handbooks, or guidance; no technical expertise to carry out a surveillance program; and a lack of annual proficiency checks for pilots and crew. Some of the 17 countries now meeting their oversight responsibilities originally did not, and FAA has worked with them to address their safety oversight problems.

In September 1994, the Secretary of Transportation announced the names of the countries that FAA determined did not meet international standards as well as those allowed to operate on a conditional basis.<sup>3</sup> DOT made this announcement to provide the public with more information about aviation safety in international travel.

In addition to working with the governments of other countries to assess and improve their civil aviation programs, FAA also inspects individual foreign air carriers when they fly into the United States. In our November 1992 report, we said that FAA's inspections of these foreign aircraft were primarily limited to examining aircraft markings, pilot licenses, and airworthiness certificates. While this level of review is consistent with international agreement, it represents only a limited inspection. However, under this agreement, FAA can also perform comprehensive inspections of the carrier's aircraft when its inspectors find serious deficiencies. A comprehensive inspection includes an examination of such areas as flight controls, fire protection, fuel levels, navigation systems, oxygen supply, and engine controls.

Consequently, to improve FAA's oversight of the capabilities of individual foreign air carriers, our report recommended that the agency perform comprehensive inspections of foreign carriers that fly into the United States when it finds that their home governments do not comply with international safety standards or when it becomes aware of serious safety problems through its own observations and through other sources such as foreign civil aviation authorities. In its formal response to our report, FAA advised us that it was instituting a "special emphasis" inspection

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<sup>3</sup>The nine countries that did not meet international safety standards were Belize, the Dominican Republic, Gambia, Ghana, Honduras, Nicaragua, Paraguay, Uruguay, and Zaire. The four countries that received conditional acceptance ratings were Bolivia, El Salvador, Guatemala, and Netherlands-Antilles.

program in mid-1993. Under this program, FAA develops a quarterly list of foreign carriers known to have or suspected of having safety shortcomings and targets them for more frequent inspections. However, FAA has not directly addressed our recommendation that it perform more comprehensive inspections of troubled carriers. Its special emphasis guidelines still call for limited inspections. Therefore, problems such as faulty engine controls and inadequate supplies of oxygen and fuel may go undetected.

#### MANAGEMENT OF ENFORCEMENT CASES BY FAA AND THE STATE DEPARTMENT

When FAA inspectors find safety violations by foreign carriers, the agency generally refers the resultant enforcement cases to the appropriate foreign governments through the State Department. Enforcement actions include warning letters, civil penalties, suspensions, and license revocations. Such actions respond to serious violations of aviation procedures or rules, such as excessive aircraft weight, insufficient fuel, and unqualified pilots. One such serious violation occurred in November 1992, when a foreign-operated aircraft took off overweight from Miami, Florida, and could not climb to the proper altitude. The aircraft then experienced engine failure, narrowly missed high-rise buildings in a heavily populated area, and crash-landed in the Atlantic Ocean. In investigating the accident, FAA found that the carrier did not meet international safety standards. The carrier was subsequently fined.

In March 1994, we reported that FAA and the State Department had not adequately managed enforcement cases. Specifically, of 146 cases we reviewed that FAA referred to foreign governments, 48 cases had not been acted on, primarily because the referral occurred after or close to statutory time limits for enforcement. For example, one country's law prohibited the government from initiating enforcement actions when more than 1 year had elapsed since the date of the violation. Nonetheless, FAA had referred

cases to this country after the statutory time limit was reached or too close to it to allow the government to investigate--some as long as 2 years after the violation occurred. In addition, neither FAA nor the State Department had established controls for tracking referred cases. As a result, neither agency was able to tell us whether the foreign governments had received the cases and, more importantly, whether corrective action had been taken.

We made recommendations to FAA and the State Department to address these concerns. In June 1994, the State Department formally responded to our recommendation that it work with FAA to track enforcement cases. The State Department said that it has revised its procedures to require its embassies to follow up on referred cases if the foreign governments do not respond to the embassies within 90 days. We believe this requirement is a positive step that addresses one of our recommendations.

We also recommended that FAA should determine the final disposition of enforcement cases referred to foreign governments so that it can confirm that serious safety violations have been corrected. FAA has not yet formally responded to this recommendation.

FAA'S INSPECTIONS OF FOREIGN-OPERATED, U.S.-REGISTERED AIRCRAFT OPERATED OUTSIDE THE UNITED STATES

In addition to its concerns about the oversight of foreign aircraft that fly into the United States, the Subcommittee also had concerns about FAA's oversight of U.S.-registered aircraft operated outside the United States by foreign carriers.<sup>4</sup> In June 1993, we

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<sup>4</sup>U.S. registration provides certain benefits to aircraft owners, including (1) higher aircraft resale value; (2) avoidance of airworthiness checks by foreign authorities; and (3) avoidance of foreign taxes, foreign certification fees, and foreign inspection fees.

reported that FAA performed infrequent inspections of such aircraft. FAA had difficulty inspecting U.S.-registered aircraft operated by foreign carriers because such aircraft often change hands among U.S. and foreign carriers through leasing arrangements. Furthermore, FAA did not track the aircrafts' overseas operations, nor did the agency keep records showing whether the carriers had FAA-approved maintenance programs. As a result, FAA could not provide assurance that U.S. passengers would be flying in safe aircraft if and when such aircraft return to service in this country.

As previously discussed, under international agreement, the country of registry has primary responsibility for ensuring an aircraft's airworthiness. Accordingly, FAA requires that each foreign carrier operating U.S.-registered aircraft have a program to maintain its fleet in accordance with U.S. safety standards. Although FAA had developed guidance calling for its inspectors to examine all U.S.-registered aircraft regardless of where they operate, the guidance was not precise, requiring only that inspectors "emphasize" the examination of foreign-operated, U.S.-registered aircraft. Our review of inspection records for 517 U.S.-registered aircraft operated outside the United States showed that during a 2-1/2 year period, FAA had not inspected 168 (32 percent) of the 517 aircraft. For 69 of the 168 aircraft that FAA did not inspect, it could not provide records showing whether the carriers had FAA-approved maintenance programs. Furthermore, we found that FAA did not require a safety inspection when a U.S.-registered aircraft transfers from foreign to U.S. operation.

To improve oversight of foreign-operated, U.S.-registered aircraft, we recommended in our June 1993 report that FAA (1) require owners of U.S.-registered aircraft to notify FAA when the aircraft are transferred from a foreign to a U.S. lessee; (2) identify the parties involved; and (3) inspect the aircraft when they return to operation in the United States, particularly if they

are from countries that do not meet international safety standards. FAA has not yet formally responded to our recommendation.

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International air travel is on the rise. As a result, the safety of foreign carriers will continue to be an important issue. DOT, FAA, and the State Department have initiated a number of actions over the last 3 years that, taken as a whole, improve the safety oversight of foreign carriers. We believe that it is important for FAA to continue its efforts to monitor the compliance of foreign countries and carriers with international safety standards. We realize that DOT, FAA, and the State Department face diplomatically sensitive situations in working with sovereign countries to ensure safety, even though international agreement allows FAA to ensure that foreign carriers flying into the United States are safe. Nonetheless, we believe that if FAA implemented a number of our recommendations, it could further improve its efforts to oversee the safety of foreign carriers.

Mr. Chairman, this concludes our prepared statement. We will be glad to respond to any questions that the Subcommittee may have.

(341438)



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**STATEMENT BY  
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EXECUTIVE DIRECTOR  
OF THE  
INTERNATIONAL AIRLINE PASSENGERS ASSOCIATION  
("IAPA")  
TO THE  
SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT  
OF THE  
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION  
OF THE  
UNITED STATES HOUSE OF REPRESENTATIVES**

**HEARING ON THE FEDERAL AVIATION ADMINISTRATION'S  
OVERSIGHT OF FOREIGN AIRLINE OPERATIONS CONDUCTED  
TO AND FROM THE UNITED STATES.**

Washington, D.

London

Hong Kong

**Statement by David S. Stempler, Executive Director of the International Airline Passengers Association to the Subcommittee on Investigations and Oversight of the Committee on Public Works and Transportation of the United States House of Representatives. Hearing on the Federal Aviation Administration's Oversight of Foreign Airline Operations Conducted to and from the United States.**

**October 4, 1994.**

Mr. Chairman, my name is David Stempler. I am the Executive Director of the International Airline Passengers Association, and I am here to represent the interests and concerns of airline passengers. You have asked me to address several issues in my statement which I will take in turn.

I. Does the Federal Aviation Administration have an adequate program to ensure that foreign air carriers meet minimum international aviation safety standards?

The short answer is that we don't know. Since we were not given the results of country inspections as a result of our Freedom of Information Act ("FOIA") requests for information from the Foreign Aviation Safety Assessment Program, we don't know exactly what processes that the FAA went through in assessing each country. We do know what they are generally looking at, but we don't know how they go about that process and what they have learned as a result of each inspection. You will see later in this statement the we disagree with the FAA's findings about one of the countries that they assessed.

As you know, under part 129 of the Federal Aviation Regulations, the FAA has a program of determining whether the Civil Aviation Authorities ("CAAs") of other countries are equipped, staffed, and actually perform oversight of foreign carriers, to ensure that they are operating under the standards of the International Civil Aviation Organization. This sometimes requires inspection of specific carriers of those countries to determine whether the CAA is actually performing its duties. Approval under this process would then authorize air carriers of those countries to operate to the United States. The FAA can and does perform inspections of foreign aircraft when they arrive in the United States.

IAPA informally sought the results of the reviews of countries conducted under Part 129 so that we could inform our members of any air safety dangers. When these requests were denied, IAPA and others formally filed FOIA requests for this information. These FOIA requests finally resulted in the Department of Transportation ("DOT") and the Federal Aviation Administration ("FAA") changing their position and releasing only the results of these reviews on a country by country basis. We applauded DOT and FAA for the release of this information, although it took about 7 months from the date of our original request.

The conflict that we had with the FAA on the release of the list of dangerous countries and airlines was that the FAA had issued safety alerts on other subjects. They had issued a safety alert about the danger of the Lagos, Nigeria airport and the Department of State continually updates its public information service about hazards for U.S. citizens around the globe, including the recently issued safety alert about flying Aeroflot inside Russia. Other departments of the U.S. Government warn citizens when they learn of safety hazards that involve U.S. citizens. We therefore always believed that the FAA and DOT should similarly issue such warnings about deficient countries and carriers whenever such information came into their possession.

**IAPA**

Initially DOT denied our FOIA request on the grounds that they believed that the success of the program required secrecy in order to obtain the cooperation between the CAAs affected and the FAA. Staff at the FAA stated that if substandard countries and carriers were disclosed, then these countries would cease to be candid with the FAA, all cooperation would cease, and any hope of working together to correct the deficiencies would be lost. The FAA also seemed to believe that by preventing deficient carriers from flying to the United States that they were adequately protecting U.S. citizens.

We indicated to the FAA that we appreciated the necessity for confidentiality and secrecy in certain government-to-government relationships, but the "bottom line" for U.S. citizen, airline passengers is whether the foreign air carrier that they are flying on is safe. This is true whether the flights are to or from the United States, or flights that do not operate to the United States. IAPA was concerned that U.S. citizens would unknowingly and unwittingly book flights, buy tickets, and fly on these foreign carriers outside the United States and expose themselves to enormous safety risks, all with the knowledge of the FAA and DOT.

This is a very real problem that affects many American citizens. I can't tell you how often I get calls wanting to know whether this foreign carrier or that foreign carrier is safe to fly on. They are from business people, leisure travelers, parents, or their children, who must or choose to travel to certain destinations and oftentimes have choices of airlines. The most heart-rending are the calls from parents who are sending their children on a flight for a school trip; a band concert; or personal travel. Schools and families are induced to travel on airlines from countries with low safety standards because the fares on these foreign carriers sometimes are substantially cheaper, or the routing is more direct than on U.S. or internationally recognized as safe airlines. As a parent I can empathize with parents who entrust the lives of their children to an air carrier and the anxiety it creates. We at IAPA try to help in any way that we can, but we don't possess the depth of information that the U.S. Government has, but was previously withholding from the American public.

You are probably aware of a speech prepared for delivery by Tony Broderick, Associate Administrator for Regulations and Certification of the FAA, but never delivered, entitled "A Perspective on Cooperation Between the Federal Aviation Administration and the Joint Aviation Authorities." Some selected quotes from that speech are illustrative of the FAA's view of the dimensions of this problem.

"[T]hrough a combination of reports, inspections, and accidents, it became apparent that some foreign air carriers, mostly from lesser developed countries, were operating without adequate oversight by their respective civil aviation authorities. This information produced increasing concerns with respect to such air carriers flying into the United States."

"The results of our assessments of non-JAA countries have been sobering. Nearly two-thirds of the non-JAA countries evaluated failed to meet minimum ICAO standards."

"This is not a small problem. There are already more than 470 operators from 90 countries authorized to conduct flights into the United States. Over 40% of U.S. citizens that fly overseas do so on foreign carriers."

We at IAPA are also doing our best to alert our members to the dangers of flying in various parts of the world. We have issued reports about Russia, China, Colombia, India, and other areas. But we can't do this alone, and when the FAA or DOT has safety information for airline passengers, they should add to the knowledge base of U.S. citizens and not withhold it. We understand that the FAA and DOT cannot be the aviation police for the world and that they do not have a duty to provide aviation safety information to citizens of other countries, but we do believe that they owe a duty to U.S. citizens wherever they are flying. The FAA's responsibility to its citizens does not end at the borders. We are therefore pleased that the Secretary of Transportation has chosen to be more candid about flying standards in foreign countries.

Quite frankly, Mr. Chairman, we see a Secretary of Transportation who has a real sense of the needs of airline passengers. In fact, Secretary Peña is the most consumer oriented Transportation Secretary that we have ever dealt with. The problem is that he and FAA Administrator Hinson are dealing with entrenched, bureaucratic forces at the FAA opposing a change in the way that they do business. Now don't get me wrong, the FAA is very interested in safety, but they want to accomplish this in their own way, and oftentimes don't want to be questioned about it. Their old methods have tended to be secretive and heavy handed. When you would try to break through that process you would get rebuked. But continued passenger-oriented actions by DOT and FAA give us reason to be optimistic.

II. What have IAPA's studies of international airline safety shown about the adequacy of aviation safety oversight in various countries?

As mentioned above, IAPA has issued passenger safety alerts about Russia, China, Colombia, India, and is preparing safety alerts about several other countries. As you can see from the chart attached as Exhibit 1 to this Statement, countries with more than one fatal accident per million flights are areas of great concern to us. They should also be of concern to the FAA.

III. How have the results of IAPA's studies differed from the results of the FAA's assessments?

The only country that we have issued a safety alert about and which the FAA has made an assessment is Colombia. The other countries about which we issued warning have not been assessed by the FAA. The FAA is currently assessing Russia, and has not assessed India and China. Before beginning this discussion about how our studies differed from the results of the FAA assessments, it is important to note that our analyses were done in an entirely different way than the FAA's and were for an entirely different purposes. We were primarily looking at quantifying the risks of an airline passenger being involved in a fatal airline accident, and related to that the aviation safety conditions in various countries. The FAA's mission under the Foreign Aviation Safety Assessment Program was merely to determine if the country was complying with ICAO standards.

With an understanding of the differences in our respective missions, let me explain how our analysis differed from the FAA's assessment of Colombia. To properly place Colombian airlines among all the other airlines on the chart in Exhibit 1, Avianca, the principal airline in Colombia had approximately 6.5 accidents per million flights during the ten-year analysis period, excluding one sabotage accident which was eliminated from all airlines' statistics. Based on that and other factors, IAPA recommended

that our members not fly into, within, or out of Colombia, with the exception of flights into and out of Bogota by our Honor Roll airlines. Because of the great controversy created in Colombia by our warning and because our goal is not just to point out problems, but also to be a constructive voice for improvement in aviation safety, IAPA, with the support of the Colombia Civil Aeronautics Administration ("CCAA"), agreed to have an IAPA commissioned report prepared on the status of aviation safety in Colombia. Captain John R. Olson, an aviation consultant with extensive background and experience in Latin America made an inspection of the situation and prepared the report entitled "Safety in Colombian Skies . . . It Can Be Achieved." It contains evaluations based on inspections of airlines, control towers, aviation schools and regulatory agencies. Also included were observations by him in the cockpits of domestic and international airline flights.

What prompted our original concerns about Colombia was that IAPA had four members on the SAM Airlines crash outside Medellin, Colombia, which occurred in May of 1993. The aircraft crashed into a mountain over 80 miles off course, and below the minimum enroute altitude for his position, taking the lives of 132 passengers. We were shocked that a commercial jet aircraft in this day and age would crash because it was so far off course. We then reviewed accident histories for the ten years preceding this SAM Airlines accident and determined that there were four major air disasters involving Colombian airliners.

- In November of 1983, a 747 belonging to Avianca crashed eight miles short of Madrid's airport because the pilot in command did not know the precise location of the aircraft and descended into the ground. 162 passengers and 19 crew were killed.
- In March of 1988 an Avianca 727 flew into a mountain shortly after takeoff from Cucuta, Colombia, claiming the lives of 132 passengers and 6 crew.
- In November 1989 an Avianca 727 crashed near Bogota as a result of an explosive device which detonated inside the passenger cabin. 101 passengers and 6 crew died.
- In January 1990, an Avianca 707 crashed in Cove Neck, New York taking the lives of 73 passengers and crew and seriously injuring 85 survivors. The aircraft ran out of fuel on final approach to Kennedy Airport in New York.

Although Capt. Olson's report found a large numbers of problems with respect to aviation safety in Colombia, the following summaries of sections of his report show deficiencies in Colombia, some of which relate directly to the FAA's safety assessment and would also affect the safety of international flights between the United States and Colombia. It also raises the issue of the safety of U.S. airline passengers on U.S. airlines flying to, from, or over Colombia.

**IAPA.**

- ADMINISTRATIVE PROBLEMS IN THE COLOMBIAN CIVIL AERONAUTICS ADMINISTRATION.

There are reports of corruption by CCAA officials with bribes offered and accepted for services required by CCAA officials but not rendered. Certificates vouching for aviation personnel competency are issued without verification by the issuing CCAA inspectors. The CCAA doesn't utilize enforcement procedures and there is no audit of the work of CCAA inspectors. Some members of the CCAA staff lack aviation or technical experience.

- BRIBERY OF AIR TRAFFIC CONTROLLERS.

There are reports of bribery of Colombian air traffic controllers with illegal narcotics money. These air traffic controllers falsify flight plans of airplanes used in narcotic operations allowing these flights to fly without fear of discovery in the Colombian air traffic network.

- OBSOLETE AND INADEQUATE AIR TRAFFIC CONTROL EQUIPMENT, INSTRUMENT LANDING SYSTEMS, NAVIGATIONAL AIDS, AND RADARS.

The condition of enroute navigational aids in Colombia is alarming. Pilots tell of automatic direction finders ("ADF") located where omnidirectional ("VOR") navigational aids incorporated with distance measuring equipment should be. ADF systems are ancient, underpowered, and dangerously unreliable. The mountainous topography of Colombia and meteorological conditions create interference which limits the accuracy and fidelity of ADF transmitted signals. In addition, there is often a lack of navigational aids because they have been routinely destroyed by both narcotic and political forces. There is also a lack of adequate radar coverage for both enroute and airport traffic to provide positive air traffic control and to determine and confirm aircraft location. The lack of appropriate navigational aids was one of the underlying causes for the crew of SAM Airlines getting lost and crashing. The lack of radar prevented the air traffic controller from confirming that the aircraft was not where the crew said it was.

- AIR TRAFFIC CONTROLLERS STAFFING, PAY, WORKING RELATIONSHIPS WITH PILOTS, AND FLUENCY IN ENGLISH.

Air traffic controller staffing is woefully inadequate. This shortage forces controllers to work excessive amounts of overtime to fill all scheduled positions. It is estimated that even with the current rate of hiring and training in Colombia, it would be almost two years before this shortage would be eliminated. English is the designated international language of aviation, but international flight crews state that the level of English fluency of Colombian air traffic controllers is poor. International crews also worry about traffic control that is conducted in both English and Spanish, making it often impossible to ascertain locations and procedures of other aircraft.

IV. What recommendations, if any, would IAPA make for additional steps the State Department, the Federal Aviation Administration, or the Office of the Secretary Department of Transportation could take to enhance international aviation safety?

- A. The FAA should disclose the findings of their foreign aviation safety assessments and the actual deficiencies of those countries which failed to meet ICAO standards. This should also be done for those countries that receive conditional approval.

This would be an important part of the full disclosure of aviation safety matters and would assist airline passengers in making reasoned consumer decisions.

- B. The FAA should disclose all aviation safety information that they have about foreign countries, beyond what they learn in the Foreign Aviation Safety Assessment Program, and whether or not the safety information relates to flights to and from the United States.

This would be a significant extension of the FAA's duties and responsibilities to U.S. citizens traveling abroad, but one that would be extremely valuable. The underlying premise is that the FAA may learn of aviation safety hazards in foreign countries from a variety of sources -- airlines, private pilots, the State Department, the Department of Defense, and others. These hazards create risks for U.S. air carriers and U.S. citizens. To the extent that the FAA has knowledge or can obtain knowledge of these safety deficiencies, such information should be used first in the determination of whether to allow U.S. air carriers to operate in that airspace, and secondly to inform U.S. citizens of the risk.

For example, in our report on the safety hazards in Colombia we indicated that there were significant air traffic control, radar, and navigational aid problems, of which the FAA must be aware. These aviation infrastructure problems are so significant that they cannot be overcome by any airline, no matter how safe it is. When U.S. citizens fly into, out of, through, or over Colombia, whether on a U.S. carrier, a safe carrier of another country, or a Colombian air carrier, U.S. citizens are exposed to these safety hazards.

Russian aviation safety information is another example of the value of the FAA releasing foreign aviation safety information. We advised our members not to fly to, in, or over any part of Russia or the former Soviet Union. The reason for the admonition against flying "over" is that we learned of serious air traffic control problems in various parts of the country. One incident occurred on November 29, 1993, when two of our Honor Roll airlines (British Airways and All Nippon Airways), both operating 747s, were involved in a near midair collision over the eastern Russian city of Khabarovsk in Siberia. It was only because of onboard anti-collision devices and the swift actions of the crews that prevented a major disaster. The investigative report by the Russian authorities on the incident stated that "reliable radar and communications are lacking in the area." This is the kind of information which would be extremely valuable for all U.S. citizens flying to, in, or over Russia, whether they are flying on U.S. carriers or not.

When the FAA becomes aware of such aviation safety information, we think that they should disclose it, regardless of the diplomatic problems it might create. We are, however, acutely aware of the problems with trying to make the FAA the "international aviation police" for the world, but on the other hand, to the extent that the FAA has or can obtain this information, we think it should be passed along to U.S. citizens.

C. Have ICAO perform aviation safety inspections around the world and provide ICAO with enforcement authority.

1. This is a concept that has been promoted to IAPA by FAA officials and one that we would support if we had confidence that these inspections and enforcement would be done fairly and without political influences. Certainly, ICAO would be the appropriate international body to accomplish this task if it were authorized and funded to do so.
2. Our concerns about this approach are that historically ICAO has been very political and hasn't shown the initiative to create any disputes with a member nation. We also have found that standards or requirements are often reduced to the lowest common denominator. Our final concern revolves around disclosure. ICAO in the past has not been forthcoming about safety information that would prove embarrassing to a member state. Since IAPA believes that full disclosure of safety information to airline passenger/consumers is an important part of this process, lack of disclosure of the inspections and any enforcement actions would be a problem for us. If these issues can be resolved, we would wholeheartedly support this ICAO concept.

Thank you for providing IAPA with the opportunity to testify. I hope that my statement was of value to the Subcommittee.

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**FATAL ACCIDENTS PER MILLION FLIGHTS  
(1982 - 1992)**

**IAPA Honor Roll Airlines -- the World's Safest Airlines** 0.11  
(In Alphabetical Order)

Alaska Airlines	KLM - Royal Dutch Airlines
All Nippon Airways (ANA)	Lufthansa German Airlines
America West Airlines	Malaysian Airline System
American Airlines	Qantas Airways
Ansett Australia Airlines	Sabena Belgian World Airlines
British Airways	Saudi Arabian Airlines
Canadian Airlines International	Scandinavian Airlines System (SAS)
Cathay Pacific Airways	Singapore Airlines
Delta Airlines	Southwest Airlines
Finnair	Swissair

**All Major Jet Airlines by Region**

North America	0.26
Middle East	0.46
Asia/Pacific Countries as follows: Australia, Hong Kong, Japan, New Zealand, and Singapore	0.48
Western Europe	0.53
Latin America	1.65
Asian Countries as follows: Korea, India, Pakistan, Taiwan, and Thailand	5.05
China, Russia and the Former Soviet Union	More than 10.00*/

\*/ This number is an estimate based on only 3 years of data, versus 10 years for other airlines. Since all accidents were not reported during the earlier years, IAPA believes that the rates for these countries would be even higher if all accidents were taken into consideration.

# **“SAFETY IN COLOMBIAN SKIES... It Can Be Achieved”**

**A report prepared for IAPA by Captain John R. Olson**

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## **INTRODUCTION**

This is a report to identify the major impediments to aviation safety in Colombia today. It is sponsored by the International Airline Passengers Association (IAPA) and encouraged by the Colombian Civil Aeronautics Administration (CAA). It is prepared from data compiled from multiple sources and extensive interviews with those involved in Colombian aviation. It contains evaluations of inspections of facilities of airlines, control towers, aviation schools and regulatory agencies. Included are observations in the cockpits of domestic and international airline flights.

The report is written without preconceived notions. It is not designed to prosecute or defend past tragedies in Colombian aviation. It is dedicated to the hope that the identification of air safety defects and their remedies will be accepted by those most capable of curing the ailments that endanger the lives of all who fly in Colombia.

It would not have been possible to complete this project without the invaluable assistance of Jose Bernardo Saldarriaga, General Manager of IAPA Colombia. His talents and respected reputation provided access to facilities that might not have been possible otherwise. His dedication, efficiency, and sincerity are indisputable. His guidance and suggestions were always helpful and productive. Mr. Saldarriaga's belief that our efforts will contribute significantly was inspiring.

Those interviewed reveal general agreement about the defects of aviation safety. Dialogue with administrative and regulatory agencies coincides with input from flight, maintenance, and controller personnel. These communications come from management levels as well as from the rank and file. They are offered with candor, in the hope that their insight might stimulate change. They are given without fear of reprisal, knowing that absolute confidentiality prevails. Based on these frank discussions the following observations and recommendations are offered for consideration and appropriate action:

## **I. HISTORY AND BACKGROUND**

Four major air disasters in the last ten years have claimed the lives of over 500 passengers, and seriously injured those who survived, while flying on Colombian airliners. They included both domestic and international flights, on equipment ranging from a 747 jumbo to medium sized aircraft such as the 707 and 727. For the most part, pilot error was the probable cause of these accidents, with weather and navigation aid failures contributing.

- *In November of 1983, a 747 belonging to Avianca, Colombia's major airline, crashed eight miles short of Madrid's airport. It was attempting an instrument approach in good weather at the time. Pilot error was the "probable cause" of this crash that cost the lives of 180 passengers.*
- *In March of 1988 an Avianca 727 crashed into a mountain shortly after take off from Cucuta, Colombia, claiming the lives of 132 passengers.*
- *In January 1990, Avianca lost a 707 which crashed in New York taking the lives of 73 passengers and seriously injuring 85 survivors. The investigation cited deficiencies in the maintenance, dispatch, training, and flight operations departments, as well as the leadership of its management.*

- *Most recently, in May 1993, a SAM Airlines flight crashed into a mountain miles off course, and below the minimum enroute altitude for his position, taking the lives of 132 passengers, four of whom were members of IAPA.*

In March 1991 the Colombian Civil Aeronautics Administration published an analysis of air accidents in Colombia. It cited a lack of discipline and professionalism, obsolete equipment, deficient maintenance programs, and dangerous airports. It made a list of excellent recommendations but incorrectly insisted that the fatality risk in Colombia was very low. Clearly something had to be done to remedy these serious aviation defects.

Recent visits to Avianca's headquarters in Bogota offered encouragement. Avianca is actively working to assure greater safety, proficiency, and reliability of its airline. New managers have been assigned with mandates to solve past problems. Pilot training and supervision have been enhanced. CRM training and standards of discipline are now mandatory. Increased qualifications for pilot selection are in place. New aircraft have been acquired and older ones retired, making its fleet one of the most modern in the world. Safety committees have been established. Personnel qualifications have been raised for new and existing employees. It has contracted for services to better serve the airline with technical support and training. Its maintenance department is being overhauled with competent leadership that insists upon quality and professional maintenance, as well as increased training and discipline. Avianca's leaders credit all this to the commitment of its Board of Directors who have given them the responsibility, authority, and funding. They are succeeding in making Avianca a safe airline.

An interview with Juan Emilio Posada, President of Aerolineas Centrales de Colombia (ACES), confirms his commitment to these same goals. Members of the ACES management team demonstrate similar dedication. Flights in the cockpits of these two airlines revealed a degree of proficiency and professionalism that can only be achieved by observing the standards mentioned. A visit with the leadership of the airline, Sociedad Aeronautica de Medellin (SAM), showed the same dedication to achieve the utmost in safety standards.

## **2. HUMAN ERROR**

The biggest cause of aviation accidents is human error, ranging from 65 to 72 percent. If we are to succeed in improving aviation safety in Colombia we must first eliminate human error in flying, as much as possible. Pilots need to demonstrate better decision and command techniques to minimize these errors.

### **RECOMMENDATIONS FOR HUMAN ERROR:**

- *Emphasize Cockpit Resource Management (CRM) training for flight crews. CRM deals with decision making and situational awareness in the cockpit.*
- *Provide more intensive training for pilots, controllers, and mechanics.*
- *Ensure the proper supervision of flying operations by company and Colombian CAA personnel.*
- *Insist on cockpit command discipline and standardization of procedures.*
- *Raise hiring qualifications for pilots, controllers, and mechanics.*

## **3. OBSOLETE AND INADEQUATE AIR TRAFFIC CONTROL EQUIPMENT, INSTRUMENT LANDING SYSTEMS, NAVIGATIONAL AIDS, AND RADARS.**

The obsolescence of air traffic equipment in the control towers and air traffic control centers is a serious matter. Controllers in these locations remark they are disadvantaged working with out-of-date technology. Pilots say that radio transmissions are poor and difficult to understand.

**RECOMMENDATION FOR OBSOLETE AND INADEQUATE AIR TRAFFIC CONTROL EQUIPMENT:**  
*Modernize air traffic control equipment as quickly as possible.*

The type and condition of the network of enroute navigational aids (navaids) in Colombia is alarming. Pilots tell of Automatic Direction Finders (ADF) located where Omnidirectional (VOR) navaids incorporated with Distance Measuring Equipment (DME) should be. ADF systems are ancient, underpowered, and dangerously unreliable. Also, the equipment does not provide distance measuring to and from facilities. The mountainous topography of Colombia and meteorological conditions create interference which limits the accuracy and fidelity of ADF transmitted signals. Pilots urge that these ADFs be replaced with VORs, which operate on very high frequencies (VHF). When properly installed, VORs provide accurate directional and distance measuring transmissions free from interference. Antiquated, unreliable ADF navaids may have contributed to the recent air tragedy near Medellin.

**RECOMMENDATION FOR OBSOLETE AND INADEQUATE NAVIGATIONAL AIDS:**

*Replace obsolete navigational aids with modern equipment and increase numbers and coverage of these modern navigational aids.*

Pilots tell of Instrument Landing Systems (ILS) that do not meet the criteria of up-to-date installations. Some of the airports cited were Barranquilla, Bogota, Cali, Cucuta, and Medellin. Because of this some pilots refuse to fly under Instrument Flight Rules (IFR) into certain airports, thereby limiting the level of service and economic return for these communities.

**RECOMMENDATIONS FOR OBSOLETE AND INADEQUATE INSTRUMENT LANDING SYSTEMS:**

- *Install modern Instrument Landing Systems (ILS) at Barranquilla, Bogota, Cali, Cucuta, and Medellin.*
- *Identify other airports that do not meet the necessary international standards and bring them up to date.*

Controllers and pilots alike consider the lack of adequate radar for both enroute and airport traffic an obstacle to aviation safety. They advise that there is only limited enroute and airport radar coverage in Colombia. They note that enroute radar coverage would provide positive control and pinpoint identification of aircraft positions. They point out that if radar coverage had been available last spring the Medellin incident might have been avoided.

**RECOMMENDATION FOR OBSOLETE AND INADEQUATE RADARS:**

*Install full radar coverage, both short and long distance, throughout Colombia.*

**4. NARCOTIC AND POLITICAL TERRORISM AND BRIBERY.**

Narcotic (Narco) and political terrorism are identified as having a serious impact on the safety of those who fly in Colombia. There are reports of navigational aids being routinely destroyed by guerrillas. Efforts to replace them have been minimal and delayed too long, leaving a serious gap in the already fragile navigational network. In one instance where a navaid was replaced, it was blown up soon afterward by guerrilla action, killing one guard and wounding two others. Whenever situations like this occur it is the responsibility of the CAA to restrict flights into airports that are without sufficient navigational equipment. The expectation of such action by the CAA does not relieve a pilot, or air carrier management, from exercising the same responsibility.

**RECOMMENDATION TO COMBAT NARCOTIC AND POLITICAL TERRORISM AGAINST NAVIGATIONAL EQUIPMENT:**

*Increase security efforts to ensure that all navigational equipment is in place and working satisfactorily.*

The bribery of Colombian air traffic controllers with Narco money is recognized by many as a serious problem. Apparently this activity is pervasive and can be found in the control centers and towers. Allegedly, recipients falsify flight plans of airplanes used in narcotic operations. This activity allows these flights to fly without fear of

discovery in the Colombian air traffic network. Added to this is a high level of unreported government enforcement agency air traffic attempting to intercept narco traffic. This combination of "phantom" flying (narco and enforcement agency air traffic) seriously jeopardizes the safety of those who fly the airways legitimately.

**RECOMMENDATIONS TO COMBAT BRIBERY OF COLOMBIAN AIR TRAFFIC CONTROLLERS AND TO COMBAT NARCOTIC AIR TRAFFIC:**

- *Impose severe criminal penalties for the giving and receiving of bribes for falsifying flight plans.*
- *Intensify efforts to identify, intercept, and eliminate Narco traffic.*

**5. AIRPORTS.**

El Dorado Airport, the main commercial airport for Bogota, only has one runway and is no longer capable of accommodating the volume of arriving and departing flights. The operations of the airlines, charter and air taxi flights, military activities, and miscellaneous commercial and private flying overwhelms the system during peak hours. The delays incurred because of air traffic congestion are expensive to commercial carriers and frustrating for the pilots and controllers. The excessive holding and vectoring required for the spacing of arriving flights for a one-runway operation reduces the margin of safety and places great stress on the controllers and flight crews. When poor weather is a factor the burden becomes all the more difficult.

There is no airport slot allocation system at El Dorado Airport as used in some heavily congested airports around the world. A slot system alleviates air traffic congestion at airports by assigning specific arrival and departure times for aircraft. Instrument Flight Rules (IFR) slots are allocated to all users of the airport, except for military, police, and emergency aircraft. Users of the airport subject to slots then include: airlines, charter flights, air-taxis, other commercial operators, and general aviation.

Another problem that the controllers report about El Dorado Airport is that many aircraft departures are suspected to be beyond the weight limitations allowed for takeoff. Climb performance is appreciably reduced because of overloaded aircraft. Coupled with the operation of the one runway at El Dorado Airport, this causes these dangerously overloaded aircraft to fly over populated areas of Bogota. This increases noise pollution and becomes a significant safety risk because of a critically reduced climb performance in the event of an engine failure on an overloaded aircraft.

**RECOMMENDATIONS FOR EL DORADO AIRPORT IN BOGOTA:**

**SHORT TERM RECOMMENDATIONS:**

- *Allocate IFR slots to the users of the airport so as to spread out the departures and arrivals.*
- *Restrict and divert military flying to military airports.*
- *Restrict and divert private aircraft to alternate airports.*
- *Lengthen the west parallel taxi strip to provide departure and arrival access for light aircraft under Visual Flight Rules (VFR).*
- *Construct another main runway in a direction that would accommodate prevailing winds but provide traffic patterns away from populated areas.*

**LONG TERM RECOMMENDATIONS:**

- *Build a new airport for Bogota, understanding the consequences of funding and land acquisition are immense but essential to overcome. It should be located where traffic patterns would not encroach on the safety and comfort of its populated areas.*

Pilots worry about the lack of ground safety at outlying airports. They tell of airports that have no firefighting equipment or standby ambulance service. They describe runways with holes in the pavement and facilities with no security fences to prevent animals, people, and vehicles from straying onto runways. They point out that an incident, or accident, at these airports would suffer greater consequences because of this lack of equipment, maintenance, and protection.

**RECOMMENDATION FOR OUTLYING AIRPORTS:**

*Bring outlying airports up to International Civil Aviation Organization (ICAO) standards of safety.*

**6. AIRCRAFT OPERATIONS.**

Accounts of small passenger and cargo airlines, charter, and air taxi services operating without proper Colombian CAA regulatory supervision and/or without responsible management are disturbing. There are suspicions that performance limitations and standards are ignored. There are reports of management pressuring crews to fly in unsafe conditions. In addition, accounts of inadequate crew qualifications and training deficiencies in these companies are common.

**RECOMMENDATIONS TO DEAL WITH AIRCRAFT OPERATIONS IN VIOLATION OF COLOMBIAN CAA REGULATIONS:**

- *Require the proper administration of CAA regulations and conduct inspections for violations.*
- *Impose civil and criminal penalties for failure to comply with Colombian CAA regulations.*

**7. AIR TRAFFIC CONTROLLERS STAFFING, PAY, WORKING RELATIONSHIPS WITH PILOTS, AND FLUENCY IN ENGLISH**

Conversations with the leadership of the Colombian air traffic control and tower controllers reveal a great number of inadequacies that require immediate attention and funding. This is corroborated by the controllers.

According to these leaders, staffing is woefully inadequate. Estimates vary, indicating a shortfall from 80 up to as many as 250 controllers. However, steps are being taken to alleviate this shortage. In fact, 40 controller candidates are currently being trained, with another 50 to begin training in January of 1994. Standards for controller and tower staffing in the United States require that a sufficient number of controllers be available to staff scheduled duty periods, with sufficient reserve personnel for sick leave, training, and vacations. It is estimated that even with the current rate of hiring and training, it would be almost two years before this shortage would be eliminated.

The shortage of controllers creates additional problems. Controllers should be provided refresher training yearly to keep them current with the requirements of their profession. Because of the severe shortage in staffing it is impossible to allow controllers time away from their duty assignments for this training.

This shortage forces controllers to work excessive amounts of overtime to fill all scheduled positions. Work shifts for Colombian controllers are six hours, with no explicit overtime restrictions. It is not uncommon for them to work two six-hour shifts in a 24 hour period—and there are instances of controllers working three shifts, 18 hours, in a 24 hour period. Their level of efficiency and alertness is seriously diminished when they perform for such long periods. Management confirms that because of low salaries, relative to other jobs in Colombia, controllers seek out opportunities to work these extra shifts. This is at the expense of quality time that should be devoted to rest, recreation, and their families, essential for such a high stress occupation.

Accounts of low morale and discipline are understandable when such conditions exist. In the United States, controllers work eight hour shifts, no more than six days per week, and are limited to two hours of overtime on any given shift.

**RECOMMENDATIONS FOR AIR TRAFFIC CONTROLLER STAFFING AND PAY INADEQUACIES:**

- Increase air traffic and tower controller staffing to provide sufficient personnel for scheduled and reserve duty periods.
- Increase salaries for air traffic and tower controllers.

Interviews with the controllers and the pilots reveal the relationship between the two is not amicable. Both groups tell of a lack of cooperation. The pilots complain that the controllers show favoritism and deliberately delay departures and arrivals as a punitive action. The controllers believe pilots challenge clearances unnecessarily and are argumentative. It would be helpful for both pilots and controllers to be in the other's workplace to see the actual working environment. This interface will give these factions a better understanding of the working conditions of one another and stimulate the exchange of ideas and suggestions for improvement.

**RECOMMENDATIONS TO DEAL WITH THE POOR RELATIONSHIP BETWEEN COLOMBIAN AIR TRAFFIC CONTROLLERS AND PILOTS:**

- Make familiarization (FAM) flights by tower and controller operators in airline cockpits a matter of policy.
- Pilots should visit Colombian towers and control centers.

English is the designated international language of aviation, but international flight crews state that the level of English fluency of Colombian air traffic controllers is poor. These crews allege that clearances are often difficult to understand and require repeating to avoid misunderstanding. They complain of delays in responses from controllers because of this deficiency. International crews also worry about traffic control that is conducted in both English and Spanish. They note it is often impossible to ascertain locations and procedures of other aircraft in the arrival and departure patterns when controllers speak to other aircraft in Spanish. One crew gave an account of a near miss because of such a misunderstanding.

**RECOMMENDATIONS FOR POOR ENGLISH LANGUAGE FLUENCY BY COLOMBIAN AIR TRAFFIC CONTROLLERS:**

- English must be used to control all aircraft.
- The Colombian CAA should provide refresher courses in English and increase the standards and levels of English fluency.

**8. COLOMBIAN CIVIL AERONAUTICS ADMINISTRATION.**

The Director of the Civil Aeronautics Administration (CAA) has historically been a political position without regard to the desirability of an aviation background. Many feel the lack of such credentials creates a gap between the administrator and those being administered.

In the past three months there have been three directors in the CAA causing genuine concern about lack of continuity and the steady guidance necessary for the smooth administration of policy. In the opinion of many, this contributes significantly to the inability to establish a productive relationship between the CAA and the regulated aviation entities in Colombia. It also creates a level of frustration within the industry.

The most recent appointee, Fernando Zarama Vasquez, has no aviation experience. However, discussions with the director have provided an encouraging profile of his intentions as a manager. His promises of leadership dedicated to the goal of improving and revising the department are persuasive. His identification of the corruption and cultural influences that have prevented progress in the past is enlightening. His assurances that he has the backing to accomplish these goals without interference are believable. His background in administration is impressive, and his enthusiasm and energy are obvious.

If the Director of the CAA in Colombia is to accomplish his goals he must interface with those for whom he is responsible. He should establish a dialogue with the leadership, as well as the rank and file, of all the factions he is responsible for. In so doing solutions can be found for the disputes that may occur. He should encourage their suggestions and observations so as to better understand the substance of these problems. He must demand concurrence with the published aeronautical regulations and insist upon their enforcement.

**RECOMMENDATION TO DEAL WITH THE LACK OF AVIATION EXPERIENCE REQUIRED OF THE DIRECTOR OF THE COLOMBIAN CAA:**

*The Director of the Colombian Civil Aeronautics Administration must have a background in aviation administration.*

It is the opinion of several that certain CAA staff positions are occupied by unqualified personnel who are unable to monitor the operational activities of commercial and private aviation. There are complaints from sources within the CAA, as well as those from outside, that there is an absence of guidance and planning. Problems needing decisions are left unanswered, and the proper administration of the regulations that guide and ensure safety and efficiency is lacking. The present director recognizes this problem and has indicated this is not acceptable. He has indicated positively that he will correct this.

**RECOMMENDATIONS TO DEAL WITH ADMINISTRATIVE PROBLEMS IN THE COLOMBIAN CIVIL AERONAUTICS ADMINISTRATION:**

- *The CAA staff must have aviation/technical experience.*
- *Reevaluate qualifications and job descriptions.*
- *Make necessary replacements with qualified personnel.*
- *Establish procedures to monitor the duties required for each position.*
- *Contract for the services of those who can evaluate and train personnel so CAA personnel can qualify for these jobs.*

There are suggestions of corruption by CAA officials with bribes offered and accepted for services required but not rendered.

**RECOMMENDATION TO COMBAT BRIBERY OF CAA OFFICIALS:**

- *Impose severe criminal penalties for those who offer bribes and those CAA officials who accept them.*

It is alleged that certificates vouching for aircraft airworthiness and aviation personnel competency are issued without verification by the issuing Colombian CAA inspectors. The possibility of an accident occurring because of an unairworthy aircraft or an unqualified pilot is increased significantly because of these transgressions. Ironically, an unairworthy aircraft may have been a factor in the crash that took the life of the previous administrator. The failure to enforce regulations and aircraft limitations encourages deliberate violations of these requirements.

**RECOMMENDATIONS TO DEAL WITH THE FAILURE TO ENFORCE COLOMBIAN CAA REGULATIONS AND PROCEDURES:**

- *Improve CAA enforcement procedures and audit CAA inspectors.*
- *Impose severe criminal and civil penalties on inspectors, pilots and operators who knowingly operate unairworthy aircraft and utilize unqualified flight crews.*

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**CONCLUSION**

The reputation of Colombian aviation deserves better than the standing reported in Bogota's El Espectador that it is a "Black Star" Nation in the aviation world. The essentials to make it one of the safest nations for flight are intact. Colombians can erase this black mark by discipline and dedication. Safety in Colombian skies can be achieved by a concerted effort to overcome the deficiencies described in this report. What is most important is the willingness of those responsible to do so.

### **Biography of Captain John R. Olson**

Captain Olson lived and flew in Central and South America for more than 20 years of his aviation career. During this time he flew into Colombia giving him a first hand experience of the topics in his report.

He learned to fly in the military completing 52 heavy bombardment combat missions as Command Pilot in Europe during World War II. He has been a member of a aviation communities for one half of a century during which he logged over 33,000 flight hours.

After his discharge from the U.S. Army Air Corps in June, 1945 he flew for TACA International Airways and was based in San Jose', Costa Rica, and Tegucigalpa, Honduras. This was the beginning of an airline career that lasted 44 years.

He was employed by Braniff Airways in 1948 and flew as a Flight Engineer, First Officer, and Captain in domestic and international environments. He was domiciled in Lima, Peru for three and one-half years and this tenure, coupled with three years in Costa Rica, provided him with a comfortable level of fluency in the Spanish language.

In 1984 Captain Olson was Vice President Operations for Fort Worth Airlines, responsible for the acquisition of the original FAA 121 Certificates of Operation. He resigned in 1985 to accept a position as Vice President Operations for Braniff, Inc. While at Braniff he was responsible for Maintenance, Dispatch, Crew Training, Fuel Administration, FAA Liaison, Operations Control and Flight Operations. He held this position until his retirement in 1989.

Captain Olson is one of 10 U.S. aviators rated on the SST Concorde and flew it in regular service for more than a year. He flies his own Bonanza F33A.

He has accepted consulting assignments for the U.S. Department of Justice as well as for private law firms.

STATEMENT OF JAMES R. TARRANT, DEPUTY ASSISTANT SECRETARY FOR TRANSPORTATION AFFAIRS, DEPARTMENT OF STATE, BEFORE THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT, OCTOBER 4, 1994.

Good morning. I am James R. Tarrant, the Deputy Assistant Secretary of State for Transportation Affairs. Mr. Chairman, I am very pleased to have the opportunity to appear before your committee today in order to testify on the State Department's role in assuring the safety of foreign airline operations conducted in U.S. airspace.

Let me say at the outset that my colleagues in the State Department and I consider aviation safety to be of paramount importance. In the realm of aviation, the U.S. Government's first obligation is to ensure the safety and security of aircraft and airports and the people who travel by air. This is not an area in which foreign policy concerns can be allowed to affect air safety objectives.

We work very closely with the FAA, all over the world, to pursue that goal. I am pleased to note that our two agencies are in harness and pull together very well, if you will forgive that metaphor from the pre-airplane era.

In your letter, Mr. Chairman, you indicated an interest in the State Department's role in the foreign aviation assessment program conducted by the FAA -- the Part 129 Foreign Aviation Safety Assessment Program. Let me to give you a description of that role.

Broadly speaking, the State Department advises FAA on international questions and supports the FAA in carrying out its mission. You will note, Mr. Chairman, that we are guided by Section 802 of the Federal Aviation Act, which states that the Secretary of State shall advise and consult with the FAA Administrator concerning the negotiations of any agreement with foreign governments for the establishment or development of air navigation.

As I believe you know, Mr. Chairman, on September 2 Secretary Peña made public the results of some 30 assessments conducted since 1991 as part of the Part 129 Foreign Aviation Safety Assessment Program. This was an important policy step for the United States and for its aviation partners, especially those countries assessed as being not in compliance with internationally accepted standards of aviation safety oversight. Likewise, we understood the importance of informing all of our aviation partners of the change in policy represented by the public release of the assessments. I would

like to relate briefly the Department's part in reaching the decision to release the results of the assessments and then in preparing for the release.

This past June I convened a meeting at the State Department attended by senior representatives of the FAA, the Department of Transportation (DOT) and the relevant bureaus within the State Department, including all of the geographic bureaus. At this meeting the FAA described the development of its safety assessment program and a proposal for characterizing the results of its assessments and releasing those characterizations to the public. We devised an Administration-wide plan to ensure fairness to our aviation partners and the achievement of U.S. aviation safety objectives.

Like the FAA, we in the Department were aware that the release of information on the results of safety assessments, if not done carefully, could have an adverse effect on the FAA's cooperation with some of our aviation partners, especially those countries assessed as being not in compliance with internationally accepted standards of aviation safety oversight. We all agreed on the importance of informing governments worldwide beforehand that the FAA would announce the results of its safety assessments and of alerting the governments whose aeronautical authorities had been assessed of

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the results of the assessments.

With policy agreement confirmed, then, my staff prepared a series of instructions to our embassies asking them to inform their host governments of the imminent public release of safety assessments and the reasons for the release. On August 25, we sent a cable to all of our diplomatic and consular posts overseas, laying out in detail the history of the Part 129 foreign safety oversight assessment program and the upcoming public announcement of the results of assessments conducted to date. Shortly thereafter, we sent a cable specifically to those posts whose host governments' civil aviation authorities had been assessed by the FAA; this cable contained the ranking for that country, i.e. Category I, II or III, with instructions to inform host government officials in advance of the September 2 public announcement in Washington.

The State Department also immediately incorporated the newly-released safety oversight assessments as an element of the Consular Information Sheets that the Consular Affairs Bureau publishes. Now the Consular Information Sheet for each country that the FAA has assessed contains a paragraph outlining the results and providing a toll-free DOT hotline number for those wanting more details.

The care we took in explaining to foreign governments the

Part 129 assessment program and how and why the assessment results would be released paid off. By and large, the release of assessment results has been well received by the governments of our aviation partners worldwide. As you might expect, a handful of countries were disappointed in the results of the assessments. Nevertheless, they have not questioned the validity of the FAA's findings. A number of countries whose aviation authorities are not in compliance with ICAO standards have indicated that they would like the FAA's advice and assistance in order to bring authorities' safety oversight up to international standards as soon as possible.

I am happy to say that the public release of FAA's Part 129 Foreign Safety Assessment Program is a good example of how the State Department and the FAA cooperate to ensure the highest aviation safety standards are maintained by the United States. I believe that Mr. Broderick would agree that, working together on the public release of these safety assessments, the FAA and State Department have secured two important benefits: first, the American travelling public is now able to make more informed choices about air safety overseas, and, second, foreign governments now have an even greater incentive to strive for high standards of aviation safety oversight. This is what we all want because our purpose is not just to protect American citizens, but also to make aviation safer everywhere.

in the world.

Turning to another topic, Mr. Chairman, you asked me for some specific information about the Department's processing of cases of violations of FAA air rules by foreign airmen. Earlier this year, we looked at the system in place for referring cases of air violations from FAA to our posts abroad, and vice versa. We concluded that there was room for improvement, based on recommendations made by the General Accounting Office. After consulting carefully with the FAA's Office of the Chief Counsel, Enforcement Litigation Branch, we devised a new standard operating procedure. Now, when the FAA submits to the Department's Office of Aviation Programs and Policy a request for investigation, this procedure tasks our overseas posts to request that host governments investigate incidents in which one of their airmen is alleged to have violated FAA air rules while in U.S. airspace.

The new system consists of the following steps:

- The FAA informs the Department in writing of a violation and transfers the violation file to the Office of Aviation Programs and Policy in the State Department;

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- The Department prepares a memo to the U.S. Embassy in the country of the nationality of the aviator who committed the violation. The memo conveys the file to the embassy and instructs the embassy to convey the file to the appropriate agency in the host country's government with a request that the agency investigate the violation, take appropriate action and inform the embassy of the action it takes. At the same time the Department alerts the embassy by telegram to expect the file.
- The memo and telegram instruct the embassy to report its host government's response. If a host government does not respond within 90 days to the request for an investigation, the embassy, as instructed in the Department's telegram and memo, repeats its request. If the host government provides no report of action after 180 days, the embassy will inform the Department of State, which will then inform the FAA.
- Once the Department receives a report from the embassy of the host government's action on a violation case or an report that the government has taken no action, the Department informs the FAA.

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Since the inauguration of this new procedure on March 8, 1994, we have referred 18 cases to overseas posts. Of these, seven have prompted a complete investigation by the host government. The results of these investigations have been relayed to FAA. Eleven cases are pending.

We believe that the procedure has been working well. It is consistent with international practice in placing on foreign aviation authorities the responsibility for investigating, and as necessary taking actions against, alleged air rule violations by their aviators. The FAA, of course, responds to requests by foreign governments to investigate incidents in which a U.S. airman is alleged to have violated air rules of another country. This is a clear obligation of all parties to the Chicago Convention, spelled out in Article 12, which provides, "Each contracting state undertakes to adopt measures to insure that every aircraft flying over or maneuvering within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulations relating to the flight and maneuver of aircraft there in force... Each contracting state undertakes to insure the prosecution of all persons violating the regulations applicable."

Let me summarize with these concluding thoughts. First,

the Department of State is committed to making sure that international air travel is safe and secure. We were very pleased to work closely with the FAA in making public the results of its aviation assessments. We think that the release of the information will enable travelers to plan their journeys better and that it will encourage governments to exercise their aviation oversight properly. The Department also wants to make sure that foreign governments act on reports of violations of air rules. The system we have introduced should allow us to do that effectively. Thank you Mr. Chairman for your attention.

## ADDITION TO THE RECORD

October 4, 1994

STATEMENT OF DAVID G. BASSETT,  
AMERIJET INTERNATIONAL, INC.  
Before the Committee on Public Works and  
Transportation, Subcommittee on  
Investigations and Oversight

My name is David G. Bassett, and I am President, Chairman, and the owner of Amerijet International Inc., an air carrier certificated by the Department of Transportation and the Federal Aviation Administration to provide all-cargo transportation in domestic and international markets from our bases of operations in Miami and Fort Lauderdale, Florida.

Our maintenance and safety practices are regulated by the FAA under Part 121, and we regularly compete with foreign all-cargo carriers regulated under Part 129. We have been aware of and concerned about the disparate regulation of foreign and domestic carriers for several years.

At the outset, I should acknowledge that it is hard to generalize about foreign governments and their regulation of their air carriers. Many foreign governments and foreign air carriers have always adhered to the highest standards of maintenance, training and supervision. But not all have satisfied I.C.A.O standards; many do not come close; and some do not even seem to try. Because we are based in South Florida, I believe we have seen many of the worst incidents of poorly

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maintained and operated aircraft as exist anywhere in the U.S. In the past, it was flatly impossible to compare the level of maintenance, training and supervision manifested by some foreign carriers operating to and from South Florida under Part 129 with the performance of U.S. carriers providing service in the same markets under Part 121.

Part of our concern with the disparity between the regulation of air carriers under Parts 121 and 129 was economic. We and other U.S. carriers have been placed in a severe economic disadvantage when we have had to compete with carriers whose maintenance expenses were much lower than ours.

But we were also worried as residents of South Florida. The condition of many of the aircraft operated by foreign carriers to and from Miami and the quality of their crews were awful. We honestly believed that the lives of our families were at risk as long as these carriers remained essentially unregulated.

Accordingly, we encouraged the DOT and the FAA to do all they could to "level the playing field" for us and to preserve the safety of all families living near airports served by problematic Part 129 operators. And we welcomed with great thankfulness the decision of this Subcommittee to hold hearings about this problem and to investigate whether additional

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corrective legislation might be required.

I participated in the hearings Chairman Borski conducted in 1991 and enthusiastically supported his efforts to increase the safety compliance of foreign air carriers and to bring them more nearly to parity with Part 121 carriers. I was also pleased when the FAA announced its Foreign Aviation Safety Assessment Program, and we have supported that Program at every opportunity.

Frankly, we are delighted with the results the FAA has achieved so far. It is hard to imagine how any program could have been any more successful. Everyone suspected -- but the FAA proved -- that we could not assume that all governments were being faithful to their obligations under the Chicago Convention and the I.C.A.O. regulations. The FAA proceeded forthrightly and sensitively to produce well-documented findings of deficiencies among a substantial number of foreign countries. This required FAA officials to expend a significant amount of work under very difficult circumstances.

The positive results of that work are self-evident. If a foreign government does not have adequate oversight capabilities, it ought not be able to designate a carrier to provide service to our country. As a direct consequence of the Assessment Program, that result has been achieved in several cases. But the impact

of the Program has been even broader. Governments with marginal oversight capabilities have, we believe, increased their efforts at least in part to avoid negative findings by the FAA. Thus, the Program and the dedication the FAA gave to it have caused a heightened awareness of safety concerns and responsibilities around the world.

While we support and applaud the FAA's conduct of the Program, we also encourage it to continue and expand the effort. We believe some of the governments which may have achieved qualified or even affirmative compliance findings may remain suspect. Continued vigilance is necessary. We, therefore, encourage the FAA to develop ways and means to monitor compliance on an on-going basis. Periodic visits with advance notice may not be fully adequate. Random inspections and following up on information provided by carriers, passengers, "whistle-blowers" and others would be very useful complements.

\* \* \*

Turning to the Subcommittee's specific questions, we respond as follows:

- Based on your observations, do foreign air carriers operating in the U.S. airspace receive the appropriate

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level and frequency of surveillance and inspection by the Federal Aviation Administration?

Three years ago, our answer would have been -- and was -- an unqualified "NO." But things have gotten better. As indicated, there has been a measurable improvement in the quality of air transportation activity at Miami International Airport. That improvement, we believe, is a direct result of the FAA's enhanced surveillance and inspection. While improvement has occurred, we still see aircraft operated by foreign air carriers which are maintained at a level below Part 121 standards, and we also see operations being conducted by foreign air carrier crews in a manner which a Part 121 carrier would never permit. Until there is actual or near parity among 121 and 129 operators, the FAA should continue to increase its surveillance and inspection activities.

- Do you believe the assessments made by the FAA accurately reflect the capacity of foreign civil aviation authorities to ensure that their air carriers are complying with minimum international safety standards?

We believe that where the FAA found compliance unacceptable there was good and sufficient reason for that finding. Where

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findings were conditional, it is possible that with additional work, the foreign government involved may have the capacity to provide adequate oversight but lacks the needed determination. The willingness and incentive of those governments to meet I.C.A.O. standards remain unknown. Only time will tell. Most troublesome is the situation where the assessment review resulted in findings of full compliance. While we have no reason to question some of these findings, there is at least anecdotal evidence suggesting that more should be done by some of the foreign governments involved.

- As a result of FAA's publication of the names of countries whose national airlines have been barred from flying to the United States, do you believe U.S. carriers may be subject to a form of reprisal from those countries?

We believe that publication of the FAA findings is as important as the findings themselves. The positive effects of publication are hard to overestimate. And we have never believed that it was reasonable or appropriate for the U.S. Government to worry about retribution toward U.S. carriers based upon the possibility of negative assessments by the FAA. In 1991, we assured this Subcommittee that we are willing to assume that risk. Since the Assessment Program began and the results were

made known, we have not experienced the slightest threat of reprisal or retribution, and we have not heard of any actual or threatened retaliation against any other U.S. carrier.

In this connection, we were surprised to hear a report that the FAA had reached negative findings in an additional seven cases which have not yet been made public. It is hard to understand how secrecy advances the Program's goals in any way, and we would encourage maximum publicity at the earliest time.

- What additional steps, if any, should the FAA, State Department, or the Office of the Secretary of Transportation take to enhance the safety of foreign air carriers traveling to or from the United States?

On July 30, 1993, over 14 months ago, Amerijet, together with three other all-cargo carriers based in South Florida, submitted a Petition for Rulemaking to the FAA in which we suggested several amendments to the FAA regulations which, if adopted, would increase the level of safety among foreign air carriers. That Petition required much work and was offered as a sincere attempt to support the FAA's Assessment Program in a new and different way. For the record, we are attaching a copy of that Petition to this Statement. To my knowledge, no interested party opposed our Petition, and at least one other U.S. carrier

supported it. I am sorry to say that, up to this date, the FAA has not processed our Petition in any meaningful way. We were assured that we had raised "an important aviation issue," but unfortunately, our project had not been adopted as one of "agency priority." We believe that adoption of these revisions should be relatively non-controversial and would certainly improve the safety of foreign air carriers operating to and from the United States.

Continuing the Assessment Program at an enhanced level will also have an affirmative effect on air carriers safety. We are not aware of the full extent of the Assessment Program, but we assume it includes more than an evaluation of carrier maintenance surveillance, and covers operational training and systems as well. It is obvious that all aircraft must be well maintained. But governments must also assure that carrier crews are well trained and disciplined. To the extent crew supervision has not been focused upon, it should be.

In addition, continuing and intensifying ramp inspections at U.S. airports is very worthwhile, not only for the direct effect those inspections have, but for the healthy improvement in attitude they develop when carriers know they may be inspected by the FAA when they operate to the U.S.

\* \* \*

In summary, we are very grateful for all of Chairman Borski's work in bringing this problem to public attention, and we support the efforts of the Subcommittee and its staff to improve the safety compliance disposition of all carriers operating in U.S. airspace. We are also thankful for the interest our Congressman, Peter Deutsch, has taken in this problem and for his work to increase safety in the airspace in and around South Florida. We also believe the FAA should be commended for the extraordinary efforts it has devoted to developing and promoting the Assessment Program.

We encourage the FAA, together with the Departments of State and Transportation, to continue the Program and to take whatever additional steps are necessary to assure that an even higher level of safety is achieved. Parity between Part 121 and Part 129 operators would seem to be the most reasonable goal. If that goal is not possible, however, these agencies should be encouraged and supported in their efforts to achieve substantial parity. We hope the Subcommittee and the staff members will continue to oversee developments in this area. Your help has been essential to the progress which has occurred.

I will be pleased to answer any questions you may have.

11.30 AM:07

BEFORE THE FEDERAL AVIATION ADMINISTRATION  
U.S. DEPARTMENT OF TRANSPORTATION

In the matter of	x	
	x	
Petition for Rulemaking:	x	Docket No. _____
14 C.F.R. §§ 61.77,	x	
63.23, 91.60, 129.13	x	
and 129.15.	x	
	x	
	x	

**PETITION FOR RULEMAKING**

Pursuant to section 11.25 of the Federal Aviation Regulations (the "FARs"), 14 C.F.R. § 11.25, Amerijet International, Inc., Arrow Air, Inc., Challenge Air Cargo, Inc. and Southern Air Transport, Inc. (collectively, the "Carriers") respectfully petition the Federal Aviation Administration (the "FAA") to institute a formal rulemaking proceeding under section 11.29 of the FARs for the purpose of eliminating certain regulatory disparities which currently exist under the FARs between the treatment of U.S. and foreign air carriers. The text of the regulations which the petitioning Carriers propose be adopted and a draft notice for inclusion in the Federal Register are set forth, respectively, in Attachments A-E and F to this petition.

**The Petitioners**

The Carriers which are proposing these amendments to the FARs are all-cargo carriers offering scheduled and charter

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service from bases in Southern Florida. They serve domestic and international markets and have many years of experience in transport operations as certificated air carriers under Part 121 of the FARs.

For many years, the Carriers have been concerned about the disparate regulatory oversight accorded some foreign air carriers serving U.S. markets under Part 129 of the FARs. That disparate treatment poses, on a daily basis, a serious threat to the lives and safety of citizens who live and work in Southern Florida, including the Carriers' employees and other personnel. Moreover, such unequal treatment also places the Carriers at a distinct competitive disadvantage relative to those operators that function outside the regulatory framework of Part 121. It is to remedy both these situations that the Carriers are filing and prosecuting this petition.

#### Background

On June 4, 1991, Representative Robert A. Borski, Chairman of the Subcommittee on Investigations and Oversight of the Committee on Public Works and Transportation of the United States House of Representatives (the "Oversight Subcommittee") opened a hearing on government oversight of "loophole airlines." <sup>1/</sup> In the course of describing the problems such airlines present,

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1/ As used in this petition, the term "loophole airlines" refers to air carriers that fly under foreign flags and thereby avoid the high degree of regulation and surveillance to which U.S. air carriers are subject. See section I.A., below.

Representative Borski noted that "if ever there was an accident waiting to happen, this is it." 2/ In the testimony that followed, the magnitude and severity of the dangers posed by the operations of loophole airlines were graphically demonstrated and possible solutions to the problem were suggested.

FAA officials testified at the Oversight Committee's hearing that they recognized the existence of the loophole airline problem and that they would take remedial action to address it. In fact, following the hearing, the FAA stepped up its assessment of safety oversight capabilities of foreign nations in an effort to root out those programs where the level of attention and care may be inadequate. The FAA has also intensified its surveillance over and investigation of individual carriers seeking operating certificates under Part 129 of the FARs. The Carriers believe that these activities have been salutary and should be continued. Nevertheless, the Carriers submit that more can and should be done.

The Oversight Subcommittee's hearing occurred more than two years ago but, despite the FAA's stepped up inspection programs, the loophole airline problem persists. A November 1992 report by the General Accounting Office ("GAO") found that of fifteen countries recently surveyed by the FAA as a follow-up to the hearing, nine had oversight regimes that were insufficient to ensure that their flag carriers met international safety

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2/ Government Oversight of Loophole Airlines: Hearing Before the Subcommittee on Investigations and Oversight of the House Committee on Public Works and Transportation, 102nd Cong., 1st Sess. ("Loophole Hearing") at 1 (1991).

standards. Nonetheless, under current regulations and practice, carriers flying the flags of those countries may still freely operate in U.S. skies. Indeed, on November 6, 1992, an improperly maintained aircraft operated by a suspected loophole airline crashed into the ocean near Port Everglades, Florida after developing engine trouble upon takeoff from Miami International Airport. During its descent into the ocean, this aircraft reportedly flew within 100 feet of condominiums in the Miami Beach area.

The Carriers submit that the dangers and unfairness that inhere in the insufficiently regulated operation of loophole airlines mandates that the FAA take prompt action to ensure that all carriers flying in U.S. airspace comply with appropriately stringent safety standards. For these reasons, the Carriers request the FAA to institute a rulemaking proceeding and adopt the new rules that are proposed herein.

#### Discussion

##### I. The Public Interest Requires That The Loophole Airline Problem Be Eliminated.

###### A. Description of the Loophole Airline Problem

Under current U.S. law, domestic air carriers are subject to very different and more exacting safety regulations than are some of their foreign competitors. Operating regulations for U.S. air carriers, which are found in Part 121 of the FARs, are, appropriately, stringent, extensive and intrusive. No comparable

requirements, however, are directly imposed by the FARs on foreign air carriers.

In fact, U.S. oversight of foreign operators in the aviation industry is quite limited and quite deferential. As Anthony J. Broderick, the FAA's Associate Administrator for Regulation and Certification, explained during the Oversight Subcommittee's hearing, international aviation standards are established and maintained under the auspices of the International Civil Aviation Organization ("ICAO") which was created pursuant to the Convention on International Civil Aviation (the "Chicago Convention"). See Loophole Hearing at 159 (statement of Anthony J. Broderick). On the assumption that signatories to the Chicago Convention will comply with the terms to which they have agreed,<sup>3/</sup> Part 129 of the FARs provides for the extension of operating privileges to foreign carriers regulated by nations that are signatories of that Convention, as long as those carriers comply with the requirements their home countries impose. <sup>4/</sup>

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3/ See Federal Aviation Administration: Information Concerning FAA Procedures for Examining and Monitoring Foreign Air Carriers, 57 Fed. Reg. 38,342, 38,343 (1992) ("[a] basic precept of the international scheme is that sovereign states that accept the [Chicago] Convention's obligations will comply with them").

4/ This approach stands in stark contrast to that taken under U.S. law in connection with other modes of transportation. In the water and motor carrier areas, for example, all equipment employed in the U.S. -- regardless of the citizenship of its owner or operator -- is required to be operated and maintained in satisfaction of specific U.S. Government standards. See Loophole Hearing at 2 (statement of Rep. Borski); 154 (statement of David G. Bassett).

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In many instances -- that is, where the foreign nation adopts and enforces an adequate safety program -- the approach of Part 129 results in safety levels that are equal to if not greater than those required under Part 121. However, not every nation of the world maintains an adequate program. Indeed, some have no regulatory controls at all. To be sure, the number of countries that do not have programs equivalent to Part 121 is relatively small. But in those countries, the degree of safety required of the carriers they regulate may be dangerously deficient.

This is not to say that every carrier that flies under the flag of these nations is unsafe. Notwithstanding defects in or even the absence of governmental requirements, some of these carriers may elect on their own to abide by maintenance and training programs that ensure an acceptable level of safety. The problem lies in the small set of unscrupulous operators -- the loophole airlines -- that seek to fly the flag of these nations for the very purpose of availing themselves of the lax safety oversight regimes that are in place there.

Just as in the U.S., the laws of the foreign nations involved often preclude foreign nationals (or corporations controlled by foreign nationals) from flying their flags. As a consequence, the individuals behind the loophole airlines, some of whom are American, often cannot simply organize a corporate entity in the selected jurisdiction and commence operations. But this does not stop them. These individuals have contrived a

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clever scheme to reap the benefits of the Part 129 loophole notwithstanding their citizenship.

Their general approach is to establish companies in the United States ostensibly to provide aircraft and flightcrews to carriers that need them, either on a long term or short term basis. They next link up with a national of the country which has the lax regulations of which they seek to take advantage and cause that national to obtain carrier status in that country using aircraft and flightcrews supplied by the U.S. leasing companies. These air carriers then obtain operating authority in the United States as foreign air carriers under Part 129 of the FARs and their strategy is complete. They may operate in the U.S. subject only to the inadequate safety program required in their nominal home country. And because avoidance of safety requirements is their prime objective, they rarely, if ever, adopt higher standards on their own initiative.

The impact of these practices on the public interest of the United States should be obvious. First and foremost, the operation of these aircraft in U.S. skies puts the citizenry on the ground in substantial physical danger. Moreover, by avoiding the greater safety requirements imposed on U.S. carriers, these loophole airlines avoid the costs associated with compliance with those requirements, thereby affording themselves an unfair competitive advantage over carriers operating under Part 121.

B. The June 4, 1991 Loophole Airline Hearing

The record compiled at the June 4, 1991 hearing of the Oversight Subcommittee amply demonstrates that regulatory modifications are needed to address the problems presented by loophole airlines. Testimony offered during the Oversight Subcommittee's hearing provided dramatic evidence that the threat such operators pose to the safety and well-being of air travelers and persons residing in the communities that surround the nation's airports is quite real. For example, Charles B. Siceloff, Jr., then the Manager of the Miami Flight Standards District Office of the FAA, provided evidence of fourteen separate safety incidents involving aircraft leased by a U.S. entity to numerous foreign operators. <sup>5/</sup>

In addition, a retired airline captain, Robert W. Banta, testified about repeated instances when loophole airlines deliberately understated the weight of the freight loaded on aircraft in order to carry more cargo notwithstanding the fact that this resulted in the aircraft being overloaded. <sup>6/</sup> Reece S. Saunders, another airline captain whose services were leased to numerous loophole airlines by a flightcrew leasing company, testified to the total lack of safety accountability practiced by such operators. According to Mr. Saunders, leased flightcrews were never instructed in the operator's policies and procedures, flights were flown into airports unsuitable for the aircraft,

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<sup>5/</sup> Loophole Hearing at 210, 213 (statement of Charles B. Siceloff, Jr.)

<sup>6/</sup> Loophole Hearing at 39-41 (statement of Robert W. Banta).

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flights were operated in dangerously overloaded conditions and in adverse weather situations without adequate weather radar, and flights were conducted without the necessary documentation for, or the proper loading of, hazardous materials carried on board. 2/

Finally, B. F. Spohrer, President and Chairman of the Board of Challenge Air Cargo, Inc., one of the undersigned Carriers, gave some of the most compelling testimony of the safety lapses that have occurred:

I have seen aircraft that literally were held together with speed tape and patches fly repeatedly over densely populated areas even though common sense, not to mention the most basic of airworthiness standards, would have dictated that the aircraft be grounded. I have seen flight crews rented on an hourly basis pull up to the ramp and take off in aircraft they had never seen before without even the most basic familiarization training and briefing on the foreign operator's own operating and emergency procedures. I have seen foreign certified maintenance inspectors sign off on repairs that they never observed being performed. And, I have seen foreign aviation authorities with seemingly impeccable standards on paper who lacked both the resources and the technical know-how to monitor compliance with those standards.

Loophole Hearing at 8 (statement of B. F. Spohrer).

Evidence offered at the Oversight Subcommittee's hearing also showed that, while safety may be the most important reason why the loophole airline problem needs to be addressed, it is not the only one. William G. Langton, President of Southern Air Transport, Inc., another of the petitioning Carriers,

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2/ Loophole Hearing at 41-42, 45-48 (statement of Reece S. Saunders).

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characterized this second concern as the "level playing field" issue and rhetorically framed the question as follows:

Are some carriers, because of lack of surveillance, able to cut corners as far as maintenance is concerned [and] operate with different crew standards; and if they are, does this give them a distinct advantage in the marketplace since they will have lower costs because they do not have to meet the same high standards as U.S. air carriers?

Loophole Hearing at 200 (statement of William G. Langton).

The record compiled at the hearing demonstrated that the response to Mr. Langton's question is a resounding "yes." Testimony from a number of witnesses established the high degree to which loophole airlines enjoy an unfair competitive advantage over U.S. carriers. David G. Bassett, President of Amerijet International, Inc., also one of the undersigned Carriers, illustrated this point as follows:

Earlier this year, we acquired an aircraft which had been under the control of responsible Part 121 carriers since it was built. The record showed that the landing gear had been replaced but, at the time the work was done, the FAA did not require that the records related to the work be retained with the aircraft. FAA has since changed its policy and, when we were not able to produce those records, we were required to absorb the costs of \$400,000 to replace the gear. Leaving aside the real value of the FAA requirement, it is one which is not imposed upon or honored by the Part 129 operators with which we compete. . . . Thus, while we had to absorb \$400,000 to use this landing gear, a foreign air carrier could have installed it without incurring any expense. And the aircraft on which it was installed could easily have been put in service in direct competition with one of our aircraft.

Loophole Hearing at 150-151 (statement of David G. Bassett).

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Richard L. Haberly, President of Arrow Air, Inc., another of the present petitioners, echoed the concerns raised by the other carriers in summarizing the difficulties he faces in dealing with loophole airlines:

The largest single expense of running a U.S. cargo air carrier is not the cost of the aircraft, it is not the cost of the fuel, it is not the cost of the flight crew; it is the cost of complying with the most comprehensive set of safety regulations in the world. When your competition has to bear but a fraction of that expense, a comparison of the cost of aircraft, fuel and other operating expenses . . . becomes irrelevant.

*Id.* at 20 (statement of Richard L. Haberly).

Thus, the record assembled at the Oversight Subcommittee's hearing placed it beyond dispute both that (i) loophole airlines, having successfully avoided the rigorous safety requirements of Part 121 of the FARs, operate in a patently unsafe manner and (ii) in doing so, these operators afford themselves a significant but unfair advantage over their U.S. competitors.

C. The FAA Response and the GAO Reports

Although the Oversight Subcommittee's hearing was completed over two years ago and notwithstanding the laudable efforts the FAA has taken during that period to correct the problem, the conditions that led to the loophole airline problem remain. According to a November 1992 report by the GAO, carriers from countries which have been inspected by the FAA and found to have substandard safety oversight regimes are still permitted to fly to the United States. Moreover, anecdotal evidence suggests that

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the FAA may have been somewhat too accommodating during some of its inspections visits abroad. As a consequence, unsafe aircraft almost certainly are continuing to operate to the United States.

As noted, the FAA promised during the Oversight Subcommittee's hearing to take steps to enhance its oversight of foreign safety programs and to intervene where necessary and appropriate to ensure higher safety achievement levels by those foreign nations and operators whose performance was lacking. The FAA has followed through on these promises by conducting an increased number of ramp inspections of foreign air carrier equipment, by visiting a number of foreign nations to inspect and consult about on-going safety programs and by co-ordinating to a greater extent with the Department of Transportation (the "DOT") and the airports around the country.<sup>8/</sup> The FAA's efforts in this regard are to be praised and should be continued. As we show below, however, these efforts have not been sufficient to eliminate the problems inherent in the operation of loophole airlines.

First, in a November 20, 1992 letter, the GAO reported to Representative Borski the results of its review (completed at his request) of the efforts undertaken by the FAA to determine the

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<sup>8/</sup> On August 24, 1992, the FAA published a description of its "program for gathering safety information concerning new and existing foreign air carriers operating into the United States." 57 Fed. Reg. 38,342 (1992). This notice, however, did not indicate the results of the FAA's efforts in this regard or otherwise address the issues raised at the Oversight Subcommittee's hearing and, to our knowledge, the FAA has not made those results public elsewhere.

status of international safety enforcement programs. 9/ Significantly, the GAO found that, of the fifteen countries the FAA surveyed, 10/ nine had oversight regimes that were insufficient to ensure that their flag carriers met international safety standards. 11/ The GAO further reported that, although the Department of Transportation had ceased approving new carrier applications from those countries on the basis of the foregoing findings, the FAA was nonetheless permitting carriers from those jurisdictions that held U.S. operating authority prior to the FAA's inspection visits to continue to fly in United States airspace. 1992 GAO Report at 1, 4. 12/

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9/ United States General Accounting Office, Report to The Chairman, Subcommittee on Investigations and Oversight, Committee on Public Works and Transportation, House of Representatives, Aviation Safety: Increased Oversight of Foreign Carriers Needed (November 20, 1992) (the "1992 GAO Report").

10/ The FAA did not itself select the countries surveyed. Rather, it assessed those countries from which a new carrier applied for a license to operate in the United States during the survey period. 1992 GAO Report at 3.

11/ The GAO, however, did not either disclose all the facts found and subsidiary conclusions reached by the FAA or describe how much discretion the FAA exercised in evaluating a nation's compliance with its obligations under the Chicago Convention.

12/ The FAA reportedly granted this special accommodation to some foreign carriers because it believed both that some of those carriers had established safety records and that it could fill the oversight void through its own inspections. 1992 GAO Report at 1, 4, 8. The Carriers believe that this determination may in the future need to be revisited. At the Oversight Subcommittee's hearing, the FAA explained that, in the event a country's safety regime was found to be deficient, the FAA would work with that country to ensure that an appropriate one was installed. Ultimately, however, if an adequate program was not adopted, the FAA recognized that a more dramatic response from the United States could  
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More recently, the GAO again touched on these issues when it reported to Representative Borski on June 18, 1993 concerning certain safety issues involving U.S.-registered aircraft. <sup>13/</sup> Although the 1993 GAO Report focused on the safety of aircraft operated by foreign carriers exclusively outside the United States, Appendix I of the Report identified concerns generally presented by the leasing of aircraft. In describing these concerns, the GAO noted that

[i]f an aircraft has been leased to several different carriers over a period of time, the accuracy and completeness of [its maintenance] records sometimes deteriorates. As a result, FAA and designated airworthiness representatives have difficulty (1) verifying the maintenance and repairs that have been completed on the aircraft and (2) requiring corrective action.

1993 GAO Report at 14. The leasing of the same aircraft by multiple carriers -- which is presently permissible under the FARs -- is a common practice among loophole airlines. Accordingly, for the reasons the GAO explained, despite the FAA's efforts since the Oversight Committee's hearing, loophole airlines remain difficult to regulate under current rules.

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<sup>12/</sup>(...continued)

be needed. Loophole Hearing at 64-65 (testimony of Anthony J. Broderick).

<sup>13/</sup> United States General Accounting Office, Report to The Chairman, Subcommittee on Investigations and Oversight, Committee on Public Works and Transportation, House of Representatives, Aviation Safety: Unresolved Issues Involving U.S.-Registered Aircraft (June 18, 1993) (the "1993 GAO Report").

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D. The November 6, 1992 DC-7 Incident

The persistence and severity of the loophole airline problem was dramatically reinforced in the early morning hours of November 6, 1992. At that time, a DC-7 aircraft, apparently operated by an unauthorized person on behalf of Aerochago, a suspected loophole airline, developed engine trouble immediately after takeoff from Miami International Airport and had to crash land in the Atlantic Ocean off Port Everglades, Florida. News reports of this incident told that as the aircraft descended after its troubles began, it passed perilously close to a number of residential buildings in Miami Beach. One eye witness, who was standing on the balcony of her condominium at the time, was quoted as saying that the aircraft was no more than 100 feet from the building when it went over. Another witness, one of the flightcrew members on board, reportedly confirmed that he was so close to the buildings that he could read the signs as he went by.

Every indication is that this problem was caused by inadequate aircraft maintenance. There are also some indications that the accident would not have occurred if there had been a minimally adequate level of flightcrew discipline. By document dated April 28, 1993, the National Transportation Safety Board (the "NTSB") issued a preliminary report about this incident in which it confirmed at least some of these suspicions. Indeed, the findings set out in the NTSB report suggest that, had the aircraft, flightcrew and operator been subject to standards

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remotely comparable to those in Part 121 of the FARs, the accident would not have occurred.

First, the NTSB report shows that both the aircraft and flightcrew for this flight had been leased by Aerochago from an operator who was not authorized to operate under the FARs. Furthermore, the report also indicates that the aircraft had been subject to a ramp inspection on April 29, 1992 at which time serious maintenance and repair violations were identified. Before corrective action could be taken, however, the aircraft "disappeared." Finally, the NTSB report reveals that, due to the loading of about 20,000 pounds of unnecessary fuel onto the aircraft -- the extra fuel was loaded for the purported purpose of avoiding higher fuel costs in Santo Domingo, Dominican Republic -- the aircraft exceeded its maximum gross takeoff weight in Miami by about 3,000 pounds and would have probably exceeded its maximum gross landing weight in Santo Domingo by almost 14,000 pounds had the flight been successful. Obviously, if a more exacting safety scheme had been in place, the Aerochago incident might have been avoided.

#### E. The Dominican Republic Inspection

In the early part of 1993, a carrier designated by the Government of the Dominican Republic filed an application with the DOT seeking authority to operate to the United States under Part 129. In accordance with its compliance inspection policy, a team representing the DOT and the FAA visited Santo Domingo and inspected the compliance policies, capabilities and resources of

the Government of the Dominican Republic. Apparently, the DOT and FAA officials found those policies, capabilities and resources inadequate and so informed the Government of the Dominican Republic.

Perhaps as a result of information gleaned through their investigation of the infamous DC-7 incident referred to above, the sanctions utilized by the DOT and the FAA in this case, apparently with the cooperation of the Government of the Dominican Republic, were more severe than those which had been used in the past and, in the opinion of the petitioning carriers, they were much more effective. 14/ By letters dated on or about April 27, 1993, the DOT went beyond its previous sanctioning policy of simply foreclosing new operations by new applicants and terminated the existing authority of Dominican Republic carriers to serve the U.S. with their own aircraft and crews. 15/ Moreover, the DOT announced that the designated carriers would not be able to resume operations to the U.S. on their own unless and until the Government of the Dominican Republic approved and the FAA determined that the carriers were able to "conduct U.S.

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14/ As noted, neither the DOT nor the FAA releases reports to the public about their compliance investigations of foreign nations. But, based on actions of the DOT made public well after the inspection occurred, it is possible to discover what must have occurred and to conclude that the DOT and FAA policy regarding sanctions has advanced measurably.

15/ At or about the time of the DOT/FAA inspection visit, there were press reports emanating from the Dominican Republic to the effect that the operating authority of several Dominican Republic carriers had been terminated or restricted.

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operations in full conformance with the Chicago Convention and ICAO Annexes." 16/

The petitioning Carriers applaud this enhancement of the DOT/FAA inspection program and encourage those agencies to use it whenever and wherever the need arises. The Carriers believe that stricter enforcement will certainly improve materially the likelihood that no Part 129 carrier will be permitted to serve the U.S. except in full satisfaction of the standards the aviation community requires. This result will occur directly -- by terminating the operations of unsafe Part 129 carriers -- and indirectly -- by informing potential loophole airlines that the U.S. will hold them to as high a level of safety as it expects from its citizen carriers. The prophylactic effect of this policy is perhaps not measurable, but it certainly will be positive.

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The FAA's effort to date in response to the Oversight Committee's hearing has been commendable and should be continued. This is not to say, however, that the regulatory changes proposed herein should not also be adopted and enforced. No one should be lulled into the belief that the dangers created by the operations of loophole airlines have fully abated or that a regulatory response is somehow no longer necessary. The proverbial accident

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16/ Reportedly, one Dominican Republic carrier was permitted to continue its service to the U.S., but only as a result of a finding by the FAA that it would be able to exercise sufficient oversight respecting that carrier to assure that it would satisfy the stipulated ICAO standards.

about which Representative Borski spoke in opening the Oversight Subcommittee's hearing is very much still waiting to happen.

II. The Proposed Regulations Should Be Adopted To Eliminate The Loophole Airline Problem.

This petition seeks the adoption of regulations specifically designed to close some of the gaps in the FARs which the loophole airlines exploit to evade aviation safety requirements and thereby gain unfair competitive advantage. Unless and until foreign carriers are required to abide by standards substantially equivalent to those set forth in Part 121, all the FAA can do is try to minimize this evasive activity through its regular enforcement program. Adoption and enforcement of these proposed regulations would go a long way toward narrowing the gaps in that program which presently exist.

A. Leasing of Aircraft

The first gap in the FARs which must be filled involves aircraft leasing. As noted, loophole airlines often lease the aircraft they operate, frequently for use on less than a full time basis. Since these aircraft are quite regularly under simultaneous lease to more than one carrier, they are also quite regularly listed on the operations specifications of more than one carrier. Under these circumstances, because any particular lessee will have little incentive or opportunity to monitor the maintenance and airworthiness of the aircraft and the leasing

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company is largely unregulated, there is no effective mechanism to ensure that the aircraft is safe to fly. Moreover, as the GAO noted in its 1993 Report, such multiple leasing also impairs the FAA's ability to ensure such safety. <sup>17/</sup> The November 6, 1992 Aerochago incident graphically illustrates the dangers that inhere in the current regulatory regime governing aircraft leasing.

To remedy this situation, the Carriers propose that a new regulation be adopted as section 129.13(c) of the FARs. The proposed text of this provision is set out in Attachment A. This regulation would simply require that every aircraft listed on a carrier's operations specifications be for the exclusive use of that carrier and not be listed on the operations specifications of any other carrier. By imposing this requirement, the FAA would eliminate the multiple-lessee arrangements which have in the past led to insufficient aircraft maintenance. At the same time, it would pose no problem for legitimate carriers and/or aircraft lessors because they generally do not lease aircraft that are in multiple-lessee situations. <sup>18/</sup>

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17/ In addition, if an aircraft is allowed to be listed on the operations specifications of each of several carriers, that aircraft may be flown continually between several points that are not on the operations specifications of any one carrier simply by changing its "call sign." Indeed, it is not unheard of for a loophole carrier to change its call sign in mid-flight to allow itself to land using a call sign acceptable to the ground authorities. The adverse impact on safety and the unfair competitive advantages involved in this activity are apparent.

18/ Nor would the Carriers' proposal interfere with legitimate wet leasing activity (where one carrier leases both an aircraft and its flightcrew from another carrier authorized  
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**B. Leasing of Flightcrew Members**

One of the hallmarks of the operation of loophole airlines is the practice of leasing flightcrew members from flightcrew leasing companies. The FARs need to be amended to ban or, at a minimum, to control this increasingly common but deleterious activity.

Under the current regulatory regime, it is not rare for loophole airlines to lease flightcrew members on an hourly basis for one trip at a time. These flightcrew members often arrive on the ramp literally moments before the flight is scheduled to depart. They receive no briefings on the policies and procedures of the carrier and no training on the differences in cockpit, equipment or performance characteristics of the aircraft in which they are to fly. They may not know the other members of the cockpit crew; they may never have seen or been in the aircraft they are about to fly; they may never have conducted flight operations at the airport they are about to leave; and they may never again fly for the carrier they are about to serve. Since the leased flightcrew members typically fly for a number of different carriers in any given month, any one carrier's ability to accurately monitor their flight and duty times is severely compromised. At the same time, however, flightcrew leasing contracts are usually effected without the flightcrew leasing

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18/(...continued)

to operate under Parts 121 or 129). Under a wet lease arrangement, the wet lessor is considered to be the operator of the aircraft and, accordingly, the aircraft is not listed on the operations specifications of the wet lessee.

company accepting responsibility for ensuring that all applicable safety requirements have been satisfied. As a consequence, there is no assurance that the flightcrew members are being properly trained, that they are receiving the appropriate orientation to the carriers they serve and the equipment they operate, or that their flight and duty times are being actively monitored. Again, the November 6 Aerochago incident demonstrates the level of danger presented.

To correct this situation, the petitioning Carriers propose that Part 91 of the FARs be amended to prohibit flightcrew leasing. Specifically, every person operating an aircraft in the United States on behalf of a foreign air carrier would be required to be a full time employee of that carrier or the substantial equivalent. The carrier would thus be responsible for all applicable certification, training, qualification and currency requirements with regard to that individual to the same extent that Part 121 operators are responsible for their flightcrews. As was the case with the Carriers' proposed amendments respecting aircraft leasing, this amendment should pose no problem for legitimate carriers since those carriers generally do not lease flightcrews (except in the wet lease context). 19/ The text of the proposed provision is set out in Attachment B.

As an alternative solution to the flightcrew member leasing problem, in the event the FAA determines that a total ban on such

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19/ An exception would be made to these requirements for wet lease arrangements.

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activity is not warranted, the petitioning carriers could support an amendment to Part 91 of the FARs to impose on flightcrew leasing agents an affirmative obligation to ensure, on an ongoing basis, that all applicable certification, training, qualification and currency requirements for flightcrew members being leased are observed. The text of an amendment which would have that effect is set out in Attachment C.

The proposed alternative regulation would require any flightcrew leasing agent who leases the services of flightcrew members to register with the FAA and to provide to the FAA (and keep current) a list of all the flightcrew members for whom it serves as leasing agent. The leasing agent would be required to maintain records concerning each such flightcrew member and would be responsible for ensuring that those flightcrew members meet all applicable air safety requirements.

In addition, the leasing agent would be required to file with the FAA a notice concerning any flightcrew leasing agreement it entered into with an air carrier to permit the FAA to verify that the leasing agent will be responsible for ensuring flightcrew member compliance with the applicable regulatory requirements. This notice would specify the names of the flightcrew members, the name of the carrier to which the flightcrew is leased, the type of aircraft to be operated, the name of the responsible leasing agent and the terms of the agreement. After reviewing the submission (and any other information the FAA might require), the FAA would issue an amendment to the carrier's operations specifications which would

specifically identify the officials of the carrier and the leasing agent responsible for ensuring such regulatory compliance and maintaining the documentation relating thereto. 20/

C. Flightcrew Member Qualification

The final area in which the FARs need to be modified relates to flightcrew member qualification. The primary problem in this area is that, although U.S. air carriers are responsible under Part 121 of the FARs for ensuring the qualification and currency of their flightcrew members, there is no provision in Part 129 which imposes a similar requirement upon foreign carriers. 21/ And, as explained above, some foreign countries do not themselves impose or enforce adequate standards. This combination of circumstances permits loophole airlines to utilize flightcrews that may be insufficiently trained or otherwise unqualified to operate the aircraft they fly.

To prevent these abuses and to avoid the serious danger they cause, the Carriers propose that section 129.15 of the FARs be amended as set forth in Attachment D to impose on foreign air carriers directly flightcrew member qualification obligations that parallel those imposed on U.S. carriers under Part 121. The

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20/ As was the case with the other modifications proposed, this amendment should pose no problem for legitimate carriers since those carriers generally do not lease flightcrews except in the wet lease context, and an appropriate exception would be included for the wet lease situation.

21/ Under current law, this requirement is imposed on, and is enforceable against, only the flightcrew members themselves. 14 C.F.R. § 129.15.

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imposition of such a requirement would undermine the ability of loophole airlines to use inappropriate flightcrews. It would not, however, entail any additional burden upon legitimate operators since such carriers are presumably already being held to a similar or higher standard by their own governments. And it would not interfere with the proper functioning of the Chicago Convention since all signatories to that agreement are required to have such a regime in place.

A second, more technical gap in the regulatory scheme involving flightcrew member qualification is found in the procedures for issuing special purpose pilot or flight engineer certificates for the commercial operation of U.S.-registered aircraft leased by non-U.S. citizens. Under existing regulations, it is possible for an individual (i) to obtain a non-commercial aviation license in the U.S., (ii) to have that license validated and re-issued by a foreign aviation authority that does not make the same distinctions between commercial and non-commercial licenses as the FAA does, and then (iii) to use the foreign license as the basis for obtaining a special purpose certificate pursuant to sections 61.77 or 63.23 of the FARs under which commercial flights may be flown. 22/ Thus, it is

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22/ Sections 61.77 and 63.23 of the FARs were initially promulgated to the permit established foreign air carriers who leased U.S.-registered aircraft to operate that equipment using their own pilots. These provisions represented an exception to the general rule that aircraft registered in the U.S. had to be operated by persons holding U.S. licenses and were adopted to facilitate the financing and, derivatively, the production of U.S. aircraft. It was assumed that any flightcrew member availing himself or herself of the privileges offered by sections 61.77 and  
(continued...)

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feasible -- and, reportedly, common -- for an individual, without ever having obtained the training and practical experience generally required under Parts 61 and 63 of the FARs for commercial pilots and flight engineers and without ever having undergone the formal licensing scrutiny required thereunder, to obtain a U.S. air transport rated or flight engineer rated special purpose certificate to conduct commercial operations to and from the United States.

The proposal set forth in Attachment E would eliminate this anomaly by amending sections 61.77 and 63.23 of the FARs to include a requirement that flightcrew members seeking a special purpose certificate not hold a U.S. pilot or flight engineer certificate. Such an amendment would effectively prevent flightcrew members from "bootstrapping" their way to higher ratings and would place primary responsibility for licensing flightcrew members where it belongs -- on the foreign aviation authority which issues the foreign license against which a special purpose certificate is issued. Such a requirement is already imposed by section 61.75 of the FARs with respect to non-commercial pilot certificates issued on the basis of foreign pilot licenses, and the proposed amendment would simply extend that requirement to special purpose certificates used for commercial purposes.

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22/(...continued)

63.23 would be subject to as rigorous a safety program as that imposed by the U.S. It was not until the advent of the loophole airlines that the potential for evasion inherent in these sections became apparent.

Conclusion

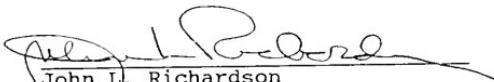
For reasons too obvious to be repeated, ensuring the fundamental safety of the U.S. aviation system is essential. At the same time, basic fairness to domestic participants in the aviation industry requires that competitive equivalence -- in other words, a level economic playing field -- must be attained. At present, the existence of loophole airlines precludes the achievement of either of these objectives. The safety levels mandated by the Chicago Convention and elsewhere required under U.S. law are not being met; as a consequence, U.S. citizens are being exposed to peril on a daily basis and U.S. air carriers are being subjected to unfair competition. Through an enhanced investigatory and enforcement effort, the FAA has achieved material improvements in the situation described to Congress in June of 1991. But more has to be done, and more can be done through the relatively modest FAR amendments proposed here. These amendments would not replace the FAA's vigorous enforcement efforts and those efforts should continue unabated. But these amendments will help achieve the goal of safer airways and fairer competition we all seek.

For all these reasons, the Carriers respectfully urge the FAA to institute a proceeding to adopt the amendments proposed in

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this petition, together with such other, further and different relief as may be appropriate under the circumstances.

Respectfully submitted,



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Southern Air Transport, Inc.

Dated: July 30, 1993

ATTACHMENT AProposed Amendment to Section 129.13 of the FARs

Section 129.13 of the FARs should be amended to add a new subsection (c) as follows:

"(c) No foreign air carrier may operate any aircraft within the United States unless (i) that carrier has exclusive use of that aircraft, (ii) the aircraft is listed on that carrier's operations specifications by serial number and registration number and (iii) the aircraft is not listed on the operations specifications of any other carrier."

ATTACHMENT BProposed Amendment to Part 91 of the FARs

Part 91 of the FARs should be amended to add a new section 91.60 as follows:

"Section 91.60      Flightcrew Leasing By Foreign Air Carriers Prohibited

No foreign air carrier may use any person as a flightcrew member, nor may any person serve as a flightcrew member for a foreign air carrier, unless that person is a full time employee of the foreign air carrier or the substantial equivalent. Nothing in the preceding sentence shall preclude a foreign air carrier from entering into or operating under a wet lease arrangement whereby the foreign air carrier leases both an aircraft and its flightcrew members from another air carrier that is authorized to operate in the United States under either Part 121 or Part 129 of these regulations."

ATTACHMENT CProposed Alternative Amendment to Part 91 of the FARs

Part 91 of the FARs should be amended to add a new section 91.60 as follows:

"Section 91.60      Flightcrew Leasing Agents

(a) No person may act as an agent for the leasing of the services of a holder of a U.S. pilot certificate, flight engineer certificate or flight navigator certificate unless that person (the "Leasing Agent") has:

(1) registered with the Flight Standards District Office which has surveillance responsibility of the area in which the Leasing Agent has his, her or its base of operations (the "Local FSDO");

(2) provided to the Local FSDO the Leasing Agent's name, address, and telephone number; and

(3) provided to the Local FSDO a list (the "Flightcrew Member List") of the flightcrew members for whom the Leasing Agent proposes to serve as leasing agent.

(b) When a Leasing Agent has met the requirements of subparagraph (a), the Local FSDO will issue a letter authorizing that Leasing Agent to act as leasing agent for the persons listed on that Leasing Agent's Flightcrew Member List, as that list may be amended from time to time in accordance with subparagraph (c).

(c) Each Leasing Agent authorized to act under subparagraph (b) shall promptly amend the Flightcrew Member List submitted in accordance with subsection (a)(3) in the event the Leasing Agent

elects either (i) to provide leasing agent services to additional flightcrew members or (ii) to cease performing such services for flightcrew members previously listed on the Flightcrew Member List submitted by the Leasing Agent. In any event, each Leasing Agent authorized to act under subparagraph (b) shall update his, her or its Flightcrew Member List at least once annually.

(d) Each Leasing Agent authorized to act under subparagraph (b) shall, on a current basis with respect to each flightcrew member listed on that Leasing Agent's Flightcrew Member List, maintain the following flightcrew member records:

- (1) Certificates;
- (2) Ratings;
- (3) Current medical;
- (4) Current proficiency check; and
- (5) Recency of experience.

(e) No Leasing Agent authorized to act under subparagraph (b) may lease flightcrew members to any air carrier or foreign air carrier unless, throughout the term of the leasing arrangement, those flightcrew members meet all of the certification, currency, and qualification requirements of the country of registry of the aircraft to be operated. In addition, prior to the commencement of any such leasing agreement or arrangement, the Leasing Agent shall provide notice thereof to, and receive approval therefor from, the Local FSDO, all as provided in this subparagraph (e). In such notice, the Leasing Agent shall:

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- (1) name the flightcrew members being leased;
- (2) specify the air carrier or foreign air carrier to which these individuals are being leased;
- (3) list the aircraft (and the country or countries of registry thereof) to be operated by the leased flightcrew members;
- (4) certify that each individual flightcrew member being leased meets the certification, currency, and qualification requirements of the country of registry of the aircraft to be operated;
- (5) indicate the names of (i) the Leasing Agent responsible for the accuracy of the certification made pursuant to subparagraph (e)(4) and (ii) the representative of the air carrier or foreign air carrier responsible for the operations of the leased flightcrew members;
- (6) describe generally the terms of the lease agreement or arrangement; and
- (7) in the event of a written lease agreement, attach a copy of such agreement.

The Local FSDO, after determining that a notice filed under this subsection (e) complies with the requirements set out herein, shall issue an amendment to the operation specifications of the leasing air carrier or foreign air carrier to permit that carrier to operate with the leased flightcrew members. This amendment will specifically identify the officials of the Leasing Agent and the air carrier who are responsible for ensuring that the leased

flightcrew members meet all licensing requirements of the countries of registry of the aircraft to be operated and for maintaining documentation relating thereto.

(f) In the event the Local FSDO determines that a Leasing Agent authorized to act under subparagraph (b) is not in full compliance with the provisions of this section 91.60 or that such Leasing Agent has leased the services of a flightcrew member who does not meet all of the certification, currency and qualification requirements of the country of registry of the aircraft he or she is to operate, the Local FSDO shall promptly issue a letter revoking and terminating that Leasing Agent's authority to act under subparagraph (b).

(g) Nothing in this section 91.60 shall apply to any wet lease transaction pursuant to which a foreign air carrier leases both an aircraft and its flightcrew members from another air carrier that is authorized to operate in the United States under either Part 121 or Part 129 of these regulations."

ATTACHMENT DProposed Amendment to Section 129.15 of the FARs

Section 129.15 of the FARs should be amended to read in its entirety as follows:

"Section 129.15      Flightcrew Member Certificates

No foreign air carrier may use any person as a flightcrew member, nor may any person serve as a flightcrew member for a foreign air carrier, unless that person holds a current certificate or license issued or validated by the country in which the aircraft being operated is registered showing his/her ability to perform the duties connected with operating that aircraft."

ATTACHMENT E

Proposed Amendment to Sections 61.77  
and 63.23 of the FARs

Subsection (b)(2)(i) of Section 61.77 of the FARs should be amended to read in its entirety as follows:

"(b) . . .

(2) . . .

(i) Stating that the applicant is employed by the lessee and does not hold a U.S. pilot certificate of private pilot or higher;"

Subsection (b)(2)(i) of Section 63.23 of the FARs should be amended to read in its entirety as follows:

"(b) . . .

(2) . . .

(i) Stating that the applicant is employed by the lessee and does not hold a U.S. flight engineer or flight navigator certificate."

ATTACHMENT FSummary of Petition for RulemakingPetitioners:

Amerijet International, Inc.  
Arrow Air, Inc.  
Challenge Air Cargo, Inc.  
Southern Air Transport, Inc.

Description of the Reasons Presented  
for Instituting Rulemaking Procedures:

The petitioners identify certain disparities which currently exist between the safety standards to which U.S. and foreign air carriers are respectively held under the Federal Aviation Regulations (the "FARs") set out in Title 14 of the Code of Federal Regulations. In particular, the petitioners indicate that, due to lax enforcement of safety requirements by certain foreign nations with which the United States has bilateral aviation relations, some foreign air carriers may operate in the United States despite achieving levels of safety that are significantly lower than those required of their U.S. competitors.

The petitioners assert that this problem is most pronounced in connection with a small number of foreign air carriers that seek to operate under foreign flags for the very purpose of avoiding the high degree of regulation and surveillance to which U.S. air carriers are subject. The petitioners contend that the disparate regulatory treatment of these carriers has the following deleterious effects:



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- (i) By permitting the operation of unsafe aircraft within U.S. airspace, the disparate treatment poses a serious threat to the lives and safety of citizens who live and work in and around our nation's airports.
- (ii) By allowing foreign air carriers to avoid the cost of compliance with the more exacting domestic regime, the disparate treatment places U.S. air carriers at a distinct competitive disadvantage.

Description of Proposed Amendments:

To remedy the foregoing situation, the petitioners propose the adoption of four regulatory amendments. First, the petitioners propose to add a new subsection (c) to section 129.13 of the FARs which would require that every aircraft listed on a carrier's operations specifications be for the exclusive use of that carrier and not be listed on the operations specifications of any other carrier.

Second, the petitioners propose the adoption of a new section 91.60 of the FARs. This section would prohibit the practice of leasing flightcrew members except in the context of wet leases (where a carrier leases both an aircraft and its flightcrew members from another certificated carrier). As an alternative, in the event the Federal Aviation Administration determines that a total ban on flightcrew leasing is not warranted, the petitioners propose the adoption of a new section 91.60 that would require leasing agents who lease flightcrew members to register with the FAA and to file appropriate documents reflecting such activities. This alternative regulation would also provide a mechanism for the FAA to verify

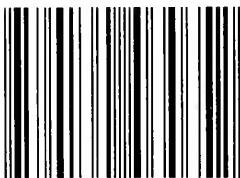
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that the leasing agent has ensured the qualification and currency of all leased flightcrew members.

The petitioners' final two proposals are in the area of flightcrew member qualification. Here, the petitioners propose the adoption of an amendment to section 129.15 of the FARs to impose upon foreign air carriers directly a requirement, now absent, that they only use duly licensed or certificated flightcrew members. Lastly, the petitioners seek to amend to sections 61.77 and 63.23 of the FARs to require that flightcrew members seeking special purpose certificates may not simultaneously hold U.S. aviation licenses.



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